

STAFFORD COUNTY PLANNING COMMISSION

June 16, 2010

The meeting of the Stafford County Planning Commission of Wednesday, June 16, 2010, was called to order at 6:33 p.m. by Chairman Gordon Howard in the Board of Supervisors Chambers of the County Administrative Center.

MEMBERS PRESENT: Howard, Fields, Rhodes, Hazard, Mitchell, Kirkman and Hiron

MEMBERS ABSENT: None

STAFF PRESENT: Harvey, Roberts, Stinnette, Baker, Zuraf, Stepowany Baral, Lott, Ennis, Hornung, Hudson and Hess

DECLARATIONS OF DISQUALIFICATION

Mr. Howard: Are there any declarations of disqualification?

Ms. Kirkman: Yes, Mr. Chair. I would like to disclose that in regards to matter Subdivision 2700206, Sycamore Hills Preliminary Subdivision Plan, I am a founding member of Save Crow's Nest and I have property in the area of the proposed development. The Commonwealth's Attorney has previously determined that I do not have a conflict of interest in this matter and I will be participating in a fair and objective manner.

Mr. Howard: Thank you for disclosing that Ms. Kirkman. And I appreciate that because under Robert's Rules of Order you would be correct that you are not required to recuse yourself based on information that you provided but it is recommended through Robert's Rules of Order that you disclose that or at least make that obvious and transparent before making any vote or participating in any discussion on that. So that's a positive. We will move now to unfinished business which is the Groundwater Management Ordinance which was deferred till today; is that correct?

UNFINISHED BUSINESS

1. Groundwater Management Ordinance **(Deferred to June 16, 2010)**

Mr. Harvey: Yes Mr. Chairman. Rishi Baral is here to give an update from the last time we discussed this issue.

Mr. Baral: Mr. Chairman and members of the Planning Commission, this update of the Groundwater Management Ordinance is a result of a letter our County Attorney's Office received. And it was reviewed again and basically there are three major editing done in the Ordinance. The first one was for the term "use". Septic tank is not a "use" and for that reason the County cannot require a Conditional Use Permit. And the second one was the County does not have authority to put extraordinary requirement of finding beyond a reasonable doubt. And the third one was state regulation reempts the local regulation for biosolids. And there are nine corrections to the Ordinance. I could go step by step, point by point to those nine corrections that are made to this Ordinance. The first one would be on page 2 of 7. There are two definition changes, for community well and contaminant. Those two definitions are changed to make it exactly match with the state requirement. Previously we had the term contamination; we put contaminant and it covers physical, chemical, bacteriological, chemical and radiological including what we previously had. And also we have the term contaminant in our

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Ordinance rather than contamination. And the third correction is in the definition of well. We removed “a resource supply such as” which is obvious, that’s why the new definition of well is “a pit or hole sunk into the earth to reach water”. And the fourth one will be on page 3 of 7, the last item Testing Guidelines. Initially these guidelines were taken over from surrounding counties. And on further review, these were not typical for water well completion report and we removed all those condition requirements of a Virginia Certified Professional Geologist completing the drill. This is not typical. Typically, geologists are not involved in completing drilling, that’s why we just put “geologist shall review the water well completion report”. And the fifth one will be on page 4, minimum well yield. We changed the number; we scratched off fifty gallons per minute and we made it twenty gallons per minute. There’s no clear definition in the state requirement but it is very close to what the state has.

Mr. Howard: So, the state has a minimum yield?

Mr. Baral: The state has a minimum yield but the state does not clearly define for one community well.

Mr. Howard: So there’s no definition for one community well but there is a definition for minimum yield for a well?

Mr. Baral: That’s correct.

Mr. Howard: Okay. And what is that?

Mr. Baral: Twenty gallons per minute.

Mr. Howard: Thank you.

Mr. Baral: And the sixth one will be on page 5 of 7. This is the field-testing requirement and the contaminant items, chemical items. We had originally written iron, sulfate, manganese and hardness. The state requirement is much broader than this and we copied from the state requirement which has a parameter such as physical, chemical, bacteriological and radiological compliance as required by the state code, we deferred to that. And wherever the water quality doesn’t meet that requirement, the correction the “treatment techniques shall be employed as required by” the state code also. And number 7 is about state regulations again. This is about water supply wells shall conform to minimum standards of Waterworks Regulations of the Virginia Department of Health, as amended. And the final water quality sampling shall be performed at the last four hours of the drawdown test; this part did not quite match with the state requirement and we scratched that off. Numbers 8 and 9 are in the Contaminant Protection Zone. We removed the word “Draper Aden Study” because we are including a map and referring to a certain study would be unnecessary in the Ordinance. And the second one of (d), we removed the “extremely high cleanup costs” because the cost was not reasonable or was not legal, that’s why that item is removed. And the last, number 10 and number 11 are on page 6. And page 6, basically we have made corrections to meet the legal need or legal recommendation and also we removed the term “extraordinary requirement”. And some uses also are removed after the legal review. And the last one, “the Conditional Use Permit for the abovementioned activities may be authorized”, “upon finding” and “beyond a reasonable doubt”, those items are crossed out because we had a letter from an outside attorney and upon review it was decided that those needed to be removed from there.

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Mr. Howard: Okay. Just a quick question on page 5, (d) (2); why was “land application of sludge” in there before and why is it being removed? I didn’t quite understand that. So, page 5, it’s under (d) Contaminant Protection and under item (2) Because of the groundwater pollution, then under that it’s actually (c) which would be Land application of sludge. What was the intent of putting that in there originally and then why is it being removed?

Mr. Baral: The reason for removing it was it was one of the uses and uses would not be permitted.

Mr. Howard: So, it’s defined as a land use?

Mr. Baral: That’s correct. The original idea of putting that was that would be some activity that would cause some groundwater contamination.

Mr. Howard: But legal is recommending removal because...

Mrs. Roberts: Yes, Mr. Chairman. That is covered under state law. We cannot regulate that.

Mr. Howard: Okay, thank you. I’ll bring it back to the Planning Commission; if there are any questions of Rishi.

Mr. Baral: Okay, thank you.

Mr. Howard: As usual, you wowed us, so thank you.

Mr. Fields: So, I assume again, just to be clear, the strikeouts on number (3), page 6 of 7, those are all based on conflicts with the state code in terms of local authority to regulate. Is that correct? Is that the reason all of these, septic systems, household fuel storage, blah, blah, blah?

Mrs. Roberts: Either state code or after review meeting with Rishi and Mr. Harvey and County staff, some of them were not relevant, like railroad, airport. So it was either not appropriate under state code or just not... it wouldn’t happen in the location of this overlay.

Mr. Fields: Okay.

Mr. Howard: Any other questions from any Commissioners? Okay, hearing none I guess we are done.

Mr. Baral: Thank you.

Mr. Howard: So, what’s the will of the Commission here?

Mr. Fields: Are next step is to advertise it or request to advertisement, right?

Mr. Howard: Right, for public hearing.

Mr. Harvey: Yes, Mr. Chairman. The Commission should consider whether to refer this to the Board for authorization to go to public hearing.

Mr. Fields: So moved.

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Mr. Howard: Is there a second?

Ms. Kirkman: Second.

Mr. Howard: Any discussion? Okay, no discussion. I guess I'll start the discussion. I'm going to vote affirmative to do that, to send this to the Board, with our approval of the changes and recommend that they send back to us to send out for a public hearing. I don't know if anyone else wants to comment. Hearing none, we'll call for the vote. All those in favor, say aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Fields: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Those opposed? The motion carries 7-0. Item 2 on the agenda this evening is the Rappahannock River Overlay District and Potomac River Overlay which we referred it back to the Board and it came back to us and we deferred it to today. Mr. Harvey, is there...?

2. Rappahannock River Overlay District and Potomac River Overlay District (Referred back by Board of Supervisors) **(Time Limit: October 6, 2010) (Deferred to June 16, 2010)**

Mr. Harvey: Yes, Mr. Chairman. Mrs. Baker will give the Commission a briefing on some of the analysis that was done of our Chesapeake Bay Program, as well as information we provided based on previous questions that the Commission had.

Mr. Howard: Thank you.

Mrs. Baker: Good evening Mr. Chairman and members of the Planning Commission. We've included some information in your package that was requested at the May 19th meeting. I'm not going to go through in detail all of that but can summarize some of the information that we've provided. Amber Forestier was not able to be here tonight but Mike Lott is here to assist with some of the technical questions. We looked at some additional information on the TMDL's, as well as the Chesapeake Bay Phase III Compliance at the last meeting. And one of the questions that came up was how do PCB's fit into the category here. What are they? So, we have provided a fact sheet that Mr. Lott had used previously which just goes into a lot of detail about PCB's. So if you have any questions on that, I will let Mr. Lott answer those. And next, we were asked to look at the Phase III Compliance, the initial study that was done by DCR last fall and to summarize how we fit the bill there, and also to determine certain things such as once the Potomac River Overlay was withdrawn, repealed, whatever language you want to use, did that affect the rating at the time? Of course, this was just an initial evaluation. When they come back next year to do the actual compliance review, their format may actually change somewhat, the point system may change. So, again, this is just a recommendation that went through four different categories of where we met certain criteria. Those four categories were minimizing land

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disturbance where we met twelve of thirty-two provisions. The second part was preserving indigenous vegetation where we met eleven of twenty-three provisions. Part 3 was minimizing impervious coverage where we met twelve of twenty-six provisions. And Part 4 was just general water quality protection provisions where we met all four of the four provisions. In looking at when the Potomac River Overlay was repealed, there were basically five areas that would not have counted towards those provisions. Those dealt with the prohibition of clearing and grading on sensitive lands, designation of other sensitive lands besides RPA features such as slopes, intermittent streams, the requirement for vegetative riparian buffers adjacent to non-perennial waterbodies or wetlands, and the protection of lands other than RPA. So those were some of the areas that were met in the Potomac River. Those are also some standards that we have written into the TND Ordinance so we do still have some of those regulations. And then we went through the areas where DCR had recommended some additional provisions. You'll see under those three categories, minimizing land disturbance, preserving indigenous vegetation and minimizing impervious cover. So we provided just a list that's basically straight out of their review checklist. I don't know if you have any questions. We just provided additional information that is kind of standard on better site design which goes into land layout and construction of projects, as well as environmental site design, cluster development, that type of thing. So, I will be happy to answer any questions.

Mr. Howard: Thank you Mrs. Baker. I will bring it back to the Planning Commission. Are there any questions for Mrs. Baker?

Mr. Fields: Are there timelines for the Phase III Compliance?

Mrs. Baker: Next year, in summer to fall of 2011, they will be coming in to do that actual compliance review. This was all preliminary information that they were gathering to do that work. They're still actually coming up with some of the finalization of that process.

Mr. Fields: And that's DCR that we're talking about?

Mrs. Baker: Yes, Department of Conservation and Recreation.

Mr. Fields: And so this relates only to non-point source pollution then, right; this part of the Phase III? Or does the Phase III Compliance ultimately become the cumulative point and non-point?

Mrs. Baker: This part deals really with our Ordinances; how they treat the Chesapeake Bay. And also site plans and plats, how we have notations and requirements in our site planning and subdivision process.

Mr. Fields: Okay, so this is just one part of the Phase III Compliance then, that aspect that you just delineated? I'm just trying to get a handle on what... what does the totality of Phase III Compliance mean for Stafford County?

Mrs. Baker: Okay, I'll let Mike come and talk to you a little more about that.

Mr. Lott: Mr. Chairman, members of the Commission. This portion we are talking about is just really to do with the Chesapeake Bay Code itself. So, really non-point sources, not specifically point sources. I don't know if there is a separate Phase III entity that looks at those or not but, as far as what they're reviewing of our Chesapeake Bay Code, it's specifically to non-point sources.

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Mr. Fields: Okay. That answers my question. I'm just wondering how ultimately the whole package of pollution to the Bay gets tied into specific areas of compliance. Okay, thank you.

Mr. Howard: Thank you. Are there any other questions?

Ms. Kirkman: Yes, Mr. Chair. Mr. Lott might be better. So, in the packet that we got, there are suggestions for improving County Ordinances in each of the categories. Are those suggestions that come from DCR or from some statute, or are these staff suggestions?

Mr. Lott: They are really primarily right out of the checklist that, I believe, is in your handout. A lot of them come straight out of that checklist. The DCR Chesapeake Bay Local Assistance, they created the checklist and a lot of those suggestions that are pulled out in the staff report are really directly out of that checklist.

Ms. Kirkman: Is that the checklist that has the eighty-five provisions?

Mr. Lott: Yes.

Ms. Kirkman: Okay. And what does it mean that we meet less than half of those eighty-five provisions?

Mr. Lott: Actually, when it was originally developed, they were going to have a point system that each locality had to achieve to pass. And for various political reasons, some to do with equity between sizes of jurisdictions, I think that kind of went away. And I called actually our local representative today to ask how they were determining who passes and who fails and she told me they were still in the process of deciding that. There's not going to be a point determination anymore. Obviously, I guess, if you look at, if we have thirty-something out of eight-five you'd say that was low. But I think compared to a lot of jurisdictions, we're actually fairly high. What she told me was this first round was really to look at what jurisdictions have currently in place in terms of codes and that the next round, when they come in in 2011, is to really look at how consistently we are in enforcing the codes that we currently have in place. Then obviously, I assume, they'll look at if we've done anything new since we've lost the Potomac River Overlay as well. But I think that was a primary focus she said for the next round is they'll look at how we are applying the codes that we have. Are we doing them consistently over all types of developments, etcetera?

Ms. Kirkman: And under the old point system, how would you fare with that kind of scoring?

Mr. Lott: I don't remember exactly what our score was but I believe we were right around what they were talking about as passing at that time, at least with the Potomac River Overlay.

Ms. Kirkman: With that we were passing, but maybe not without that.

Mr. Lott: Yes.

Ms. Kirkman: Okay, thank you.

Mr. Howard: Are there any other questions from any other Commissioner? Okay, hearing none I will bring it back to the Commission for discussion. Mr. Harvey, are we supposed to recommend this to the Board of Supervisors?

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Mr. Harvey: Mr. Chairman, the Board had requested that the Commission take a look at some of these issues and work towards developing a new ordinance. So staff would ask for direction from the Commission as to which are should we approach. Should we approach some specific items that were on the checklist where we're deficient and pursue those? Or are there some other alternative that the Commission may want us to consider? And if so, what sort of regulatory manner which we should do it? Should we make it be a regulation that's incentivizing things to occur or should we make it more proscriptive or how should we proceed?

Mr. Howard: Okay, thank you Mr. Harvey. I'll bring it back to the Commission for discussion on the will of the Commission.

Mr. Fields: Mr. Chairman, let me ask Mr. Harvey... I assume we're sort of just discussing some ideas here so if I could ask Mr. Harvey a couple questions.

Mr. Howard: Absolutely.

Mr. Fields: If we're talking about incentivizing, something that I've always felt is that... this is just my personal observation and opinion, I've been looking at this stuff for a while... is that with things that we kind of didn't score well on here with certain requirements of really protecting sensitive lands, we've not done as well as we could in Stafford, but in some ways we've been overly proscriptive about the configuration of development on land with desires for things like rigidly defined setbacks, front, side and rear yard setbacks and things like that, we've been overly proscriptive on that which isn't maybe the end of the world as much as the fate of the Chesapeake Bay. And so when they talk about incentivizing, I'm just sort of, you know... I'm sorry, no heads up so I apologize, I'm not trying to catch you off guard... but I know that you and I have sort of been having dialogues like this for a long time. Do you think, in terms of an incentive, would there be a way of saying okay, we're going to require that development be far more aware of and less invasive to things like steep slopes and intermittent streams and other areas outside the official RPA, but part of how we're going to achieve that is when we allow far more flexibility about how the land is used and how homes or other structures are sited on the land to create less disturbance. Is that something that you think has some promise as a way of investigating... in terms of incentives, it's like okay, we're taking away certain things in terms of what you can do to slopes and sensitive areas but we're giving you a little more discretion on some other factors. Do you see any potential in pursuing that (inaudible)?

Mr. Harvey: It certainly is a possibility. Some of the issues would be to make sure we identify the right incentives that would encourage people to do the things we want them to do. I know in the case of large lot subdivisions, there are issues of well, could we allow them to cluster to get smaller lot sizes so they minimize their impacts? That's got its pros and cons as far as trying to deal with the sewage disposal issue and the area you need for sewage disposal because that, at times, impacts the size of your lot. But certain things for like development in the Urban Service Area you could have some tradeoffs as far as parking requirements in relation to preserving buffers, you could have tradeoffs for landscaping requirements in exchange for preserving buffers, those types of things. It may be good for the Commission maybe to talk to some developers to see what they would see as a valuable tradeoff, if you wanted to go with the incentive route.

Mr. Fields: It seems to be necessary, because while the term incentive is used a lot and certainly sounds nice, it's hard in reality. And this is, with all due respect, to people who build houses or commercial structures for a living to develop land just like what I do with music. And I do it for a living. And so, they're doing it for a living. They have to make a profit. And I certainly respect that.

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The need to make a profit does not always work and it's not through any maliciousness, it just doesn't always work in the public interest. Their need to a profit sometimes works, particularly in my case, from what I've seen of environmental regulations is environmental regulations always seem to be perceived and probably in reality do work to some way cut into the profits of land development, obviously, because it costs money to comply with these. So, I would be interested in exploring incentives, but only if we can find out like really what would work in terms of really in a hard economic way because I can't see any other, no matter what type of way we frame it or talk about it or get enthusiastic about, unless the only way I can see incentivizing more environmentally sensitive development through incentives alone is if we can figure out how they can make as much or more money doing it a better way. And, to be honest with you, I'm always optimistic but that's a little bit challenging because it's hard to take away almost any version of an environmental protection ordinance compared to the status quo is going to be perceived and/or in reality take away some land that normally could be utilized in some way. So, that's what I'm wondering. If you could be more flexible with how you put the things... as you say in the agricultural areas, the cluster, we've talked about this a million times, if you have to have a drainfield and a hundred percent reserve, it's a hard thing (inaudible).

Mr. Harvey: Well, if the Commission would like, we can research to see what other jurisdictions do in relation to environmental tradeoffs versus other development related tradeoffs for preservation of land. We can see what they have and then interview them to see if they feel like it's been effective.

Mr. Fields: In general, would you say that, I mean, I'm sort of thinking and I want to make sure I'm just not thinking that because I'm thinking it, most of the environmentally sensitive lands that would be impacted by more stringent environmental requirements, most of them are still agriculturally zoned land, aren't they? We don't have that much urbanly zoned land that's still in an area that would have this much of this or am I thinking because so much more of the lands I can think of that have environmental challenges are more rural. Do we still have suburban zoned land that's still in some of the environmentally very difficult spots?

Mr. Harvey: We have a number of areas in the County that have wetlands, steep slopes, especially along stream valleys that's where you tend to find your steeper slopes and more sensitive soils and sensitive areas. And they range throughout the County. Probably some of your highest concentration is in your fall zone where we're talking about the Groundwater Management areas.

Mr. Howard: Mr. Fields, those are great thoughts. I think it's a bigger issue to a certain extent because it would really involve any redevelopment area in the future as well, so you would want to be able to understand the impact to the environment or what's going to change as a result the redevelopment from an environmental perspective. Just one of the issues on here, part 3, is minimizing the impervious cover. Certainly that would apply in a redevelopment area and you don't want to impact the general water quality as well by changing or redeveloping an area. Interesting thought. I don't know if anybody else has a comment or thought process on what we're discussing. My thoughts were on the checklist we don't seem to be at fifty percent or we're at some percentage; what's the right percentage to get to in terms of protecting the environment of Stafford County, whether it's an agricultural area or it's an Urban Service Area or wherever it is or it's going to be a potentially redeveloped area? What do we want it to be is really what I'm asking. You know, as planners or as Commissioners, what do we want to do in terms of impacting and making sure that, from an environmental perspective, we're doing the right thing. The tradeoff is a great idea because you could grant someone the ability to build something with ten less parking spaces if they were going to say okay, well those won't be impervious, we're going to leave them pervious so the water can seep in and it helps the groundwater and so on and

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so forth. So, there are good tradeoffs like that. But I'm not sure to what extent we've done that today already, as a matter of fact. I'm sure there have been cases where that's occurred. Has there, Mr. Harvey?

Mr. Harvey: Well, right now our Ordinances, if you are building a parking lot, you have to pretty much build it to a concrete or asphalt standard. As far as pervious pavers, they could meet those requirements, but there is no real incentive to do that other than a developer trying to meet a stormwater management requirement. They may do that if their site is tight or small and they have some other constraints.

Mr. Howard: Would we reduce the number of required parking spaces if they went to a pervious surface versus...?

Mr. Harvey: We currently don't have that but that could be an incentive. The same with loading spaces; on a commercial property some of your biggest areas that you have associated with it are your loading areas and your travel lanes because often times if you have to account for large vehicle turning radiuses and also your parking spaces for trucks for loading and unloading, they take up a significant area, in addition to normal parking.

Mr. Howard: Okay.

Mr. Fields: On a slightly different tact, since the Potomac River Resource Protection Overlay was... the Board has decided they wanted to go a different direction with that, as we go through this process I think it behooves the Planning Commission if we want to avoid, or maybe we can't avoid, a similar outcome, what you have when you deal some of this and at least one of the intentions, at least one of my intentions of supporting the Potomac River Resource Overlay, it gets into a slight... and this is a question that doesn't necessarily have a right answer... but really there are two different ways of kind of looking at this and that's to take the most sensitive areas and put tight regulations on those and leave least sensitive areas, or areas that are not impactful generally out of the regulatory framework. If you don't do that, which this current Board has decided that's not what they want to do vis-à-vis their repeal of the Potomac Overlay, then generally that implies that you're going to have to put more regulations, maybe not as stringent, but more regulations across a broader area of people. And so, I'm not implying that there's a right or wrong answer here per se, but I am saying there is a distinct philosophical difference between those two directions. And I think that's something we should at least have on our plate on the table and be thinking about as we talk about this. Ultimately, if you're talking about what goes into the water, you can look at the most sensitive areas and really just try to cut it off right there. If you don't do that, then to meet these requirements you're going to have to be more restrictive.

Mr. Howard: I think the Board has sent this back to us to hammer some of that out. So, to send it back to the Board I think is redundant.

Mr. Fields: I wasn't saying send it back to the Board. I was saying that the philosophical difference between tight regulations on a small area or less regulations on a broader area is just something we need to address, because that was kind of one of the things that underplayed the dialogue in the debate and the dissention on that Ordinance; that's all I was saying.

Mr. Howard: I don't know that to be the case but I'd rather get back to this that's before us tonight. So, Mr. Harvey, I thought your suggestion was a good one, to look at other counties to understand how

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they've done this. And in here you already do have some specific thoughts and recommendations. And we've been talking about impervious cover so one of the examples that you have in here is to provide incentives for structural parking versus surface parking. And we have a citizen that comes before us every two weeks and talks about that as an option; he is very passionate about that. It's probably a thought and a good idea and it may be time for the County to consider that. What does that look like? What does it mean? Would you convert, if a developer was going to build somewhere, what part of the development require structural parking versus surface parking depending on the type of facility and is it an office complex and so forth. And if they did that, what does it get them to Mr. Fields' point? Is there something that the developer benefits and also the County would benefit long term by that taking place? So, I'm in favor of... you know, we'll do the will of the Commission here... but I'm in favor of having staff explore what other jurisdictions are doing, what the impact has been, and if they have any feedback, it certainly would be good to learn from others who have tried this or gone down this path before.

Ms. Kirkman: Mr. Chair, I would just, just to remind staff and if Mrs. Baker is still here, she was also involved in this process, in preparing the Potomac River Resource Overlay and working with staff on that, a pretty comprehensive review of existing legislation in other localities was already put together. In fact, much of the language from the Potomac River Resource Overlay came directly from other existing ordinances. So, I believe a lot of that work has already been done. I think the larger issue is, since the Board repealed that legislation, whether or not they're even going to consider legislation that does the two most important things that that legislation did, which was to protect steep slopes and intermittent streams.

Mr. Howard: Okay, I'm not sure what that meant but... anyone else have a comment? No? Okay. So, Mr. Harvey, I guess we're asking that we do get some homework on this. And we're not asking certainly staff to waste their time but where other jurisdictions have used this type of an overlay district and where it's been effective and what some of those details in their plans were that were the most effective in terms of some of the tradeoffs. And I guess stay focused on the four areas, minimizing land disturbance, preserving vegetation, minimizing impervious cover and general water quality. The good news is the County meets four of those four provisions in the questionnaire, so that's a positive.

Ms. Kirkman: Well, Mr. Chair, if you look closely, they met those when they had the Potomac River Resource Overlay. A lot of them they don't now.

Mr. Howard: Again, I'm not sure what that means; we're here tonight. Thank you.

Mr. Harvey: Mr. Chairman, for further direction, when would you like us to bring that back? Staff would recommend we probably look at our August meeting at the earliest so that we have some time to do the research.

Mr. Howard: I think August is fine. Is that August 6th?

Mr. Harvey: The 18th.

Mr. Howard: The 18th; okay. August 18th?

Mr. Harvey: Yes sir.

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3. Discussion of Medical and Dental Clinics Definitions (**Time Limit: July 6, 2010**) (**Deferred to June 16, 2010**) (**Requested extension of time limit to September 1, 2010**)

Mr. Howard: Okay. Thank you. Okay, item 3 on the agenda this evening is Amendments to the Zoning Ordinance. And this was referred to us on the discussion of medical and dental clinics. And the last meeting we asked for a letter to go to the Board or a request to the Board of Supervisors to request an extension of time to September 1st.

Mr. Harvey: Yes, Mr. Chairman. At your desk is a copy of the Board of Supervisors' report requesting the extension. Yesterday the Board did approve the Resolution R10-186 granting the extension to September 15th.

4. Fees for Minor Revisions to Planning and Zoning Applications (**Time Limit: July 20, 2010**) (**Deferred to June 16, 2010**)

Mr. Howard: Great. Thank you. Item 4 on the agenda this evening is fees for minor revisions to the Planning and Zoning applications and the time limit on this is July 20th; we deferred it to tonight's meeting.

Mrs. Hornung: Good evening Mr. Chairman and members of the Commission. At the, it wasn't the last meeting, it was the May 19th meeting I believe, the Commission requested that staff look at the worksheet that was put together for you of all the amendments, proffer amendments, Conditional Use Permit condition amendments, and revisions to major site plans; all of those and which of those could be considered even further a minor amendment to those applications. So, I believe Stacie put that before you this evening and those are highlighted in yellow. And typically most of them are utilities, environmental, stormwater and entrances or one was extension of time, extending time not only for a proffer which was a hospital road but another one which was for vehicle storage, but it didn't address any uses because anything that had to deal with uses or increasing the structures or any other item increased on the property, that would have been a little bit more involved and not considered a minor amendment. Because a definition that was proposed by the Board Committee would be a minor amendment to any of those proffers, the Conditional Use Permit, or even major site plan would be something that would be no more than two Conditional Use Permit conditions or proffer changes. Another item that could be considered, allowing an extension of time and then no increase in use, intensity or functionality of the project. And similarly, to the major site plan, changes that would not affect intensity, use, functionality or substantially affect the layout and also the change of use would not require an increase in parking. So, any of the minor amendments under the definition wouldn't really increase the use or any of the existing proffers or conditions on that property or that project.

Mr. Howard: Obviously, Andrea, one of the concerns, a big concern was would we be reducing the revenue that the County would be receiving based on changing the fee structure. And I appreciate the work that went into the analysis but I'm not sure I would be able to ascertain that from this information.

Mrs. Hornung: Well, what the Board Committee envisioned was that by having a minor amendment or change to an already existing...

Mr. Howard: More applications would come in.

Mrs. Hornung: The public hearing land use cases would still come before both committees but the

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Board would envision a reduced fee. The assumption that reducing it in half, which yes it wouldn't take care of all the time and involvement of that project because it's still going through the public hearing process which the fees are based on at least one Board and one Planning Commission meeting and advertisements.

Mr. Howard: Right.

Mrs. Hornung: So, but when you're looking at the chart in the last few years, there haven't been that many. So, it might be negligible. Or if it is an extension of time or something of minor nature, people might be more interested in okay, now it's not as expensive, I can go back to the County and have this minor change. But, that's speculating.

Mr. Howard: And you had given us examples of, I'm not sure if it was you or Mr. Harvey, some examples of what a minor revision would encompass. One example I recall, I'm not sure if it was Mr. Harvey or if it was you, Andrea, and you indicated that they may have to change the site plan and move a receptacle that handles the garbage for the facility to a different location or maybe go from a horizontal to a vertical compactor which would change the site plan.

Mrs. Hornung: Right, and some of those, a lot of it is based or dependent upon the project, but some of those we found that we can handle it as an as-built. Maybe the movement of a dumpster is not an appropriate example. That would be a minor revision to a major site plan, moving a dumpster. But some of those items, a lot of times we have been able to handle at the as-built stage which is the application that they submit to zoning prior to their certificate of occupancy. But one amendment that I think probably impressed the, or stayed in the minds of the Board was the extension of the proffer for the hospital road. And they had to come back in and pay just about the same fee that they paid for the proffer, the rezoning for the hospital because there was no fee for just a change of the time because the road... I don't recall exactly when but, for instance, it might have needed to be opened and usable by March but they weren't going to be able to have it ready until maybe the summertime, July or August, because of the weather.

Mr. Howard: Yeah, I think it was about a two month delay on that.

Mrs. Hornung: Right.

Ms. Kirkman: Excuse me, I thought the Board waived that fee for the hospital, didn't they?

Mrs. Hornung: I think they did for the road but that would be...

Ms. Kirkman: Yeah, so the fee never got paid.

Mrs. Hornung: Right, for that one. But if it was somebody else, then it would be... I misspoke, excuse me.

Mr. Howard: No, I think you were using that as an example. They would have had to pay the ten grand.

Mrs. Hornung: Right.

Mr. Harvey: Mr. Chairman, one point I was going to make as sort of a take-away from the colored

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chart that you have, as you can see that there is probably about half the applications we had for revisions would potentially qualify for the minor change. That would, in some cases, help streamline the process for the applicants as well as the County. I guess there will be a difference in that, as Mrs. Hornung said, on some of these minor revisions for zoning cases, you're going to be focused on one or two changes only rather than the broader picture.

Mr. Howard: Right. Well, I guess what I'm not totally understanding I suppose is the different dollar amounts on the document today. So, we do have site plans where we revise the utilities or stormwater management and that dollar amount is different than a different site plan that was adjusted for the same reason.

Mr. Harvey: Part of that may be the amount of acreage or disturbed area. Our fee schedule has different variables in it so there's not a flat fee necessarily for all applications.

Mrs. Hornung: Plus, these are also spanned over a few years so we've changed the fees. The fees have increased or decreased over the last few years. So, when you see some of the applications that have exactly the same amount, a revision to a major site plan is one fee.

Mr. Howard: What is that fee?

Mrs. Hornung: Currently... I think it was about \$7500. Oh, \$4500, excuse me. And that's just for Planning and Zoning. But if they were revising something that would be environmental in nature, that would go to our environmental reviewers or transportation, that would go to our transportation office. I'm not sure if we have a fee for them, but Utilities, we do have a fee for them; so that if it's a different department that has a fee in the fee schedule, then it would be in addition to that revision fee.

Mr. Howard: Okay. Ms. Kirkman, you had a question.

Ms. Kirkman: So, just to confirm, if it's highlighted in yellow, it was staff's determination that that would qualify as a minor revision?

Mrs. Hornung: Yes. Just looking at that on the face of it that they were...

Ms. Kirkman: Yeah, on the face of it I'm concerned about that, to me, raises some real issues about interpretation of the meaning of "do not materially affect site layout" or "do not affect intensity, use or functionality of the site". So, for instance, we have amend condition to add eight accessible apartments; that's been put in the minor category but anytime you're adding eight apartments...

Mrs. Hornung: Looking in, right, a lot of it was just...

Ms. Kirkman: That changes the functionality...

Mrs. Hornung: But for this particular one, they had so many, if I remember correctly, I was just looking it up in the database, and that was allowing eight of the units to be apartments when I think they were single family. I believe this was a nursing home or it was one of the projects.

Ms. Kirkman: Right, but doesn't that change the use when it's changing (inaudible)?

Mrs. Hornung: Well, if it was a duplex and then they converted the building to apartments.

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Ms. Kirkman: That's a change in use.

Mrs. Hornung: Right.

Ms. Kirkman: So, why is it listed as a minor? Because a change in use is one of the things that excludes it from being a minor.

Mrs. Hornung: I have to go back and pull the file for that one to see exactly some of the items. But if I remember correctly, it was that they had so many units allowed and they converted a one type of unit to another which would have still had the same building structure and they still met their density. That may have been one that would have to look further into. When we get the application, we're not going to just look at it and say alright, you want to add eight apartments; we're not going to say automatically yes, that's a minor. We would look more into it and look at the application to make sure that would qualify. I was just going through the chart and looking at the information I had in the database to see if that might be an item.

Ms. Kirkman: Well, adding service bays for Pohanka Honda, how is that not increasing the use or the density? I guess my question, there are a number of these that say add, whether it's add service bay or add apartments, add stockpile area, add trailer, and it seems to me anytime you talk about adding something you're increasing the density or the intensity of the use. So, I'm alarmed that there are a number of these that are designated by staff as minor that have additions in them.

Mrs. Hornung: Right. On some of these, like adding the trailer, it was an office trailer that would have been temporary in use. There were some of them that wouldn't necessarily... now I was looking through this and going through it so I was making, just on the face of it without pulling the file and reading all of the details because I had a lot of this ready for you at the last meeting. Now, some of these maybe through further review may not qualify.

Mr. Howard: The apartment example doesn't really sound like it's changing the use or the footprint from what you said based on the size of the building, but we can debate does the intensity change if you add additional bays. Well, not if those bays existed in this or that garage space existed and they were using it for some other function on the property.

Mrs. Hornung: Right, because some of them, if they added additional bays, the structure was there and maybe they just did internal renovations and allowed the bays to go in there, I mean for the vehicles to go in there for service. Which they were still allowed for the use for service but they added... maybe adding is not the right word because it sounds like they're adding something physically.

Mr. Howard: So, I think one of the to-do's is actually define, to come up with a definition of what a minor would be and have the Planning Commission agree to those definitions on this.

Mrs. Hornung: Right, and the definitions you have, if they're not adequate...

Mr. Howard: Well, under (b) minor amendments, is that page 2?

Mrs. Hornung: Are you talking about the chart?

Mr. Howard: No, I'm talking about...

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Mr. Rhodes: The draft language.

Mr. Howard: I guess it's page 2.

Mrs. Hornung: In the Ordinance, yes.

Mr. Howard: You have four things listed under minor amendments to approved proffers, right?

Mrs. Hornung: Correct.

Mr. Howard: So, is staff suggesting that these four are the criteria that would...

Mrs. Hornung: These are the criteria that came out as a result of the Board Fee Committee meeting that could possibly fit the definition of a minor amendment.

Mr. Rhodes: Mr. Chairman? Just to clarify, I don't recall, I wasn't here last time, but when we had previously discussed this I don't think we were asking for a formal full staff determination of each of the previous cases going through all case files. I think we had asked for just a surface review just to get a general basic sensing. But I don't think it was asking for them to apply the criteria of the draft ordinance and going through a full staff position, staff determination formally as to whether every one of these would be declared exactly there. So, I think we had a general sensing; I don't know that there was a purpose to debate (inaudible).

Mr. Howard: Right, I think it was more of a back of the envelope kind of request, to take a look and see what applications would have been or could be.

Mrs. Hornung: Or could be. I mean, I'm not saying that they all absolutely would be, that through further investigation we could see that well, no, they don't qualify. There's too much change to it, too much review and details that need to go into reviewing this and bringing it before you, that it would be a minor because it might be more involved like we found out with the Vulcan and the change of hours, the additional nighttime hours.

Mr. Howard: Right, it was more involved.

Mrs. Hornung: It was more involved.

Ms. Kirkman: But that's my concern. That's one of the ones that was listed as a minor, potentially minor, and I understand this is not a formal determination. But I had actually requested this so I could get a better understanding of what the criteria meant. And so, there are some things in here like, for instance, the Vulcan that have been put in as minor. As I said, there were a lot of adding things that to me certainly seemed to affect the use or functionality of the site. And then there's, for instance, this relocating a stormwater facility which does seem to materially affect a site layout if you're relocating features of the site. So, that's why I'm kind of... I know you weren't asked to do a formal determination but does that mean that the criteria, as they're put forward, are not clear enough or is further definition needed so that there can be some consistency interpreting what these things mean? I'm putting that forward to staff because you all are the ones that are going to have to make these determinations.

Mrs. Hornung: At the will of the Commission, is there something that you feel that maybe needs to

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put more detail into the definition for a minor amendment or a criteria that would allow...

Mr. Howard: I certainly appreciate Ms. Kirkman's comments and Mr. Rhodes', and I clearly stated in the beginning of your presentation I'm not sure I could conclude from this document what we were looking for. And it's not a shot at anybody, it just is what it is. And I realize there's not enough time in somebody's day to go through every single application that's come before us over the last three years. I would like to focus, if we could, on page two under (b) minor amendments and look through those four definitions. And I'm going to ask that we take a pause and open up for public comments and then we have to start the public hearing.

Mrs. Hornung: Sure.

Mr. Howard: But that would be my request when we come back.

Continued discussion after Public Hearings.

5. Amendments to the Comprehensive Plan (**Time Limit: September 7, 2010**) (**In Comp Plan Committee**) (**Deferred to June 16, 2010**)

Discussed after Public Hearings.

6. Redevelopment Area Plans - Boswell's Corner, Courthouse Road, Southern Gateway and Falmouth Village (Falmouth Village in Committee - Peter Fields and Scott Hiron) (**Deferred at June 2, 2010 Meeting to July 7, 2010 Meeting**)

Discussed after Public Hearings.

7. Reservoir Protection Overlay District (**Time Limit: January 29, 2010**) (**Deferred to August 18, 2010**)
8. COM1000010; Comprehensive Plan Compliance Review - Miracle Valley Lane Sanitary Sewer Extension - A request for review to determine compliance with the Comprehensive Plan in accordance with Section 15.2-2232 of the Code of Virginia (1950) as amended, for the extension of gravity sanitary sewer outside of the Urban Services Area a length of 505 linear feet to serve two residences, located on the north side of Deacon Road and east side of Grafton Village Elementary School on Assessor's Parcels 54-132, 54-133A and 54-133B within the Falmouth Election District. (**Time Limit: July 4, 2010**) (**History - Deferred at May 19, 2010 Meeting to June 2, 2010 Meeting**) (**Deferred at June 2, 2010 Meeting to October 6, 2010 Meeting**)

NEW BUSINESS

9. SUB2700206; Sycamore Hills - Preliminary Subdivision Plan - A preliminary subdivision plan for 30 single family residential lots zoned A-2, Rural Residential, consisting of 186.41 acres located on the north side of Raven Road approximately 4,500 feet south-east of Brooke Road on Assessor's Parcels 48-1 and 49-27 within the Aquia Election District. (**Time Limit: July 19, 2010**)

Discussed after Public Hearings.

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7:30 P.M.

PUBLIC PRESENTATIONS

Mr. Howard: So, at this time, we will now open up the meeting this evening for public comments. And, as usual, anyone wishing to address the Planning Commission on any item that is not before us this evening that is on a public hearing may do so. You have three minutes to address the Planning Commission. You can step forward; you state your name and where you live. And there's a green light on the podium. The green light signifies that you're ready to go and you can start your conversation. And then when the yellow light comes on, you have about a minute left. And when the red light comes on we would ask that you conclude your comments. The Planning Commission does not address you directly. Issues that you do bring to our attention, if we can get you an answer this evening, we'll try to do that while you remain in the building; so, we'll do it quick and, if not, we'll take some notes and see if we can get an answer for you at a later date. So, anyone wishing to address the Planning Commission this evening... and again, this is for anything that is not on the public hearings and we have four public hearings this evening... you may do so by stepping forward to the podium.

Mr. Waldowski: Paul Waldowski. Two weeks ago, Mr. Chairman, you brought up an interesting topic about ethics. And, if any of you have ever been a commissioned officer in any of our Armed Forces, just by the word commissioned, ethics is built in with integrity and I think it would be a big waste of time to pursue it. But I did like the one comment you said about all seven Supervisors, I think you said three to five minutes of what's happening in your district. I think they should have three minutes when the green light goes and then one minute when the yellow light goes. And also, since you're dealing with by-laws, I think one of the things that has never been addressed is I see all these former Supervisors who wind up on Planning Commissions, Utility Commissions, and I think it would be interesting to see why do we have former Supervisors and why don't we have a different set of people who volunteer for these positions. But I don't think they volunteer; I think it's who you know, not what you know. I also noticed that someone's going to meet with the Comprehensive Plan and I saw on the web; it's very interesting. I've come here for over a year and the main reason I want to hear three minutes is because I hardly ever hear anything about Aquia and you can tell that's one of my favorite districts. But we have two new Commissioners from Falmouth and Hartwood and they're going to look at the Comprehensive Plan, and what about the other four districts. And, let me just reiterate the main reason I come here is because storm ponds are a County issue, they're a Planning Commissioner's issue and they're going to come into play for any new subdivision you build. And just because some citizen is a member of a corporation, which that's what an HOA is, I know some of you are homeowners who have served on HOA Boards. And we already pay federal taxes, state taxes, county taxes, and HOA's are just another tax. And when I need a new deck I come to the County and then I have to waste my time and do all that great paperwork and send it to an HOA to someone who does not have the experience that staff does, which I do admire in many ways, but we all have our fallacies. Now, I know I've been sleeping for twenty years like Rip Van Winkle, but now I'm awake and I'll see you all after the Fourth of July, so enjoy the Independence Day and thank you very much.

Mr. Howard: Thank you Mr. Waldowski. Anyone else wishing to address the Planning Commission may do so by stepping forward. And, again, that would be on any topic that is not part of a public hearing this evening. Seeing no one advancing towards the podium, we will close the public comment section and now open up the public hearing section. And the first item on the public hearing this evening CUP2900195 which is a Conditional Use Permit for Stafford Lakes Service Center. Mr. Hess?

PUBLIC HEARINGS

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10. CUP2900195; Conditional Use Permit - Stafford Lakes Service Center - A request for a Conditional Use Permit to allow vehicle fuel sales in the B-2, Urban Commercial Zoning District as well as within the Highway Corridor (HC) Overlay District on Assessor's Parcel 44-75 consisting of 0.96 acres, located on the north side of Warrenton Road and the east side of Berea Church Road within the Falmouth Election District. **(Time Limit: September 14, 2010)**

Mr. Hess: Thank you Mr. Chairman. May I have the floor computer please? Alright, staff brings to you tonight item number 10, Conditional Use Permit 2900195, Stafford Lakes Service Center. The applicant is Leming and Healy, P.C. They are representing the owner who is ARR Inc. The assessor's parcel is 44-75. The approximate size of the site is .96 acres. The request is to obtain a Conditional Use Permit for vehicle fuel sales facility in a B-2, Urban Commercial Zoning District, as well as within the Highway Corridor Overlay Zoning District. There is an existing use on the property, an automobile service center which is currently a legally nonconforming use, as well as the structure itself. The location of the property is on the north side of Warrenton Road, the east side of Berea Church Road, and the south side of Fleet Road. All these roads currently are adjacent to the property. And here is the aerial showing the property. Here is Fleet Road, here is Berea Church Road, and here is Warrenton Road. And if you notice in the picture, things that were indicated in the staff report there are major employers in the general vicinity with Dominion Power over to the east. You have Geico; you can see the parking lot right here; the northern section of major commercial development which is Celebrate Virginia to the north here; and to the northeast is Berea Church, then Colonial Circuits is right in that big building right there. The Zoning Map shows that the property is zoned B-2. It has also adjacent B-2 zoned properties all around. It has some M-1 properties in the area and some A-1 properties as well. The Land Use Map calls for a mix of light industrial uses which is in the gray, and urban commercial uses which is in the orange. Here is a picture of the facility as it stands today. This view is from the southwest standing in the median of Warrenton Road facing towards the subject site. In the foreground are the northbound lanes of Warrenton Road. You will also notice the first entrance to Warrenton Road is the southernmost entrance; there's another one further up here which I'll show you in the next photograph. You can also see, obviously, the existing auto service building right here and the canopy out in front. The next picture is again taken from the median of Warrenton Road facing southwest. As you now can see, here is a second entrance into this site off of Warrenton Road and another entrance right here off of Berea Church Road. You can also notice that this is the undeveloped area of the property here, the grassy area right here, and then there's their dumpster site right there. Again, the existing auto service facility with canopy. Here is the Generalized Development Plan. This is Phase 1. Phase 1 shows the existing auto service building remaining the same. The canopy, which is right here as it shows today, it's perpendicular to Warrenton Road, would be turned perpendicular. The footers would have to remain the same; that was the zoning determination made by our Zoning Administrator. The applicant is proposing to keep one entrance, a right in/right out, off of Warrenton Road and the one entrance I showed you off of Warrenton Road is right next to it and another one is further down here and then there's the Berea Church entrance. All of those would be closed so basically you're taking away three existing entrances and putting one back in, as well as proposing one back here off of Fleet Road. The applicant is showing fourteen parking spaces, nine are right here and four are right there. The dumpster pad will be located right there and will be screened from Warrenton Road per HCOD requirements, Highway Corridor Overlay District requirements. The loading space would be right there, then there's a proposed inspection line right there. The applicant, if you can notice, has also shown right-of-way dedication; sixty-four feet from centerline on Warrenton Road and thirty feet from centerline on Berea Church Road. They're also proposing to construct a continuous right turn lane along Warrenton Road in front of their property. There is also finally a five foot wide sidewalk that is being proposed along Warrenton Road, turning right and going onto Berea Church Road. Here is the Generalized Development Plan for the Phase 2 of which the applicant is proposing at a later date per VDOT's request for the entire right-of-way dedication due to their current widening of Warrenton Road. What happens here is they show the pumps being moved from the front of the property to the back of the property, more to the north I guess you would say. The auto service station would be removed. They would also build a 500 square foot snack shop with four proposed parking spaces. The dumpster pad site has been moved further

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back away from Warrenton Road, kind of tucked up in the northwest, excuse me, northeast corner of the property, again to be screened out of vehicle sight. The right-of-way dedication from centerline on Warrenton Road would increase to seventy-six feet and on Berea Church Road it would increase up to fifty-one feet. Again, you will see the five foot sidewalks along Warrenton Road and Berea Church Road. Access points that were proposed in Phase 1 would be the same in Phase 2; the right in/right out off of Warrenton Road here and the exit in and exit out off of Fleet Road. And the grayed shaded in areas is where the proposed and required screening would be for this site. Here is a picture of VDOT's latest Route 17 proposal. As you can tell, it varies somewhat differently than what the applicant is proposing on their GDP. VDOT currently shows a connection between Fleet Road... I should say a second connection because here is the first connection, it's existing today; but a second connection between Fleet Road and Warrenton Road which ultimately splits the property into two pieces. They are providing access through a break in the curb right here. I guess if you were coming along northbound 17 you could turn here then turn into the site there. And, of course, they'll be in a continuous right turn lane right here so it will be a deceleration lane as they approach; that won't be a through lane, just to clarify that. Or they could take the today standard of, or today route of, turning right onto Fleet Road then turning left into the site and then right I guess into the break in the curb there. So that's what the latest plan is from VDOT that we have received. Here is just a canopy rendering which the applicant submitted. The proposed conditions. Again, in a report staff had cited that we are not supporting Phase 1 of the project, of the GDP. We're looking at more or less Phase 2 of the project, so we limited development to the Phase 2 GDP only. We also proffered the location and number of fuel pumps, which would be three pumps and a total of six fueling stations as shown on the GDP. There was a condition in there for consistent building materials and design for the snack shop, canopy, sign and dumpster location. Dedication of right-of-way that were shown on Phase 2, the seventy-six feet and the fifty-one feet of right-of-way off of Warrenton Road and Berea Church Road respectively would be conditioned. We also conditioned the construction of sidewalks. We also minimized the glare affects from any lights on the canopy and any free-standing lights on the property itself. We also prohibited general advertising signs and prohibited attention-getting devices. Anytime you look at a CUP, you evaluate it against these six criteria; staff pointed out that the positives of this site, the redevelopment of it would help eliminate and potentially reduce all the legally nonconformities. The overall site would be improved with consistent building design and materials and treatment and transitional screening. We also said that the site is consistent with established development pattern and existing commercial uses, and that the site would serve well for major employers like Geico and Dominion Power employees, and any potential traffic going up and down travelling north and south on Warrenton Road. Finally, staff recommends approval of Phase 2 with the conditions listed out in Resolution R10-179. Any questions?

Mr. Howard: Thank you Mr. Hess. I'll bring it back to the Planning Commission.

Mr. Fields: Mr. Chair?

Mr. Howard: Mr. Fields, I think I'll let Mr. Hirons... I think it's in Falmouth. Is that you?

Mr. Hirons: Yeah, we had a little bit of discussion on that, whether it was Falmouth or Hartwood, and fortunately or unfortunately staff was correct in that it is the Falmouth District. Mr. Hess, one question I have is the vehicle trips per day; 1302. That's an increase from what the current use is, correct, obviously?

Mr. Hess: Correct.

Mr. Hirons: Do we know what the current use is? I didn't catch that.

Mr. Hess: The current use on the property?

Mr. Hirons: The current vehicle trips per day is.

Mr. Hess: Give me one second here. Actually, if I remember correctly...

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Mr. Hirons: Safe to say it's significantly higher.

Mr. Hess: It is going to be significantly; it's two different intensities of commercial uses. I apologize; I can't find what the existing vehicle trips per day is for the auto repair service.

Mr. Hirons: I assume they probably get ten to fifteen customers a day.

Mr. Hess: I imagine the engineer, who's here tonight, can answer that question for you.

Mr. Hirons: And this might be a question for the applicant as opposed to you, but you may know. I didn't catch this in here as well; I know it talked about the number of pumps and fuel sales but are they planning to sell diesel fuel?

Mr. Hess: That I'm not aware of.

Mr. Hirons: And, the last question. I should have looked this up. I'm pretty sure this is fairly far outside of the Southern Gateway Redevelopment Area.

Mr. Hess: It is, that's correct.

Mr. Hirons: That's all I had Mr. Chairman.

Mr. Howard: Thank you. Mr. Fields?

Mr. Fields: Are there currently fuel tanks there from previous use?

Mr. Hess: There are not. The canopy exists. I noted in the staff report that in the early 1990's I believe that there were tanks at one time and they were removed.

Mr. Fields: I see. Okay. So they would be rebuilding and completely reinstalling the fuel component of this.

Mr. Hess: Yes, that's correct.

Mr. Howard: Mr. Hess, was there any Phase 1 or Phase 2 study done on the soil?

Mr. Hess: No, there was no soil reports turned in with this Conditional Use Permit.

Mr. Howard: So we know there were fuel tanks there before but there's been no testing of the soil?

Mr. Hess: No, not to my knowledge.

Mr. Howard: Okay. Any other questions of staff? Ms. Kirkman?

Ms. Kirkman: Yes. What's staff reasoning in only supporting Phase 2 and not Phase 1?

Mr. Hess: There were multiple issues with Phase 1 as far as compliance with trying to meet one... VDOT had several issues and concerns with the entrances into the facility as far as access management, spacing requirements. They had a concern with... well, we had a concern with meeting transitional screening requirements and then on top of that the fact that VDOT is currently going through the process, at least the timeline they've given us, and it's very near and close to the construction of the widening of Route 17 to occur. So, there's a little bit of a timing issue there since there's a project already in the process and, for one thing, it just didn't make sense to approve a use that was going to be removed in a matter of a couple years.

Ms. Kirkman: Was the use going to be removed or just reconfigured?

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Mr. Hess: Well, it would be reconfigured to start off with. The way the canopy is, it's perpendicular to Warrenton Road so the first phase has it turned so it runs parallel with Route 17. The tanks would be put obviously under that canopy and then, at a later date, more or less the near future, approximately... I guess they're getting ready to start acquisition of right-of-way, at least do the public hearing May of next year, 2011... so they would be going through seeking to acquire the seventy-six feet of right-of-way from centerline which would ultimately remove where those tanks are at. And, of course, what we were saying is in Phase 2 the applicant would move those tanks... well, they would have the option, they didn't say which one they would go with. They could keep the auto service station there or they could remove it and move the pumps where they wouldn't be in the right-of-way after VDOT acquires the right-of-way and put the tanks back to where the automobile service center is at now.

Ms. Kirkman: But they've proffered to provide the right-of-way when VDOT gets to that point, correct?

Mr. Hess: Right. And what we're saying is VDOT is already near that point as is.

Ms. Kirkman: But if the applicant... I guess I'm not following the thinking about if the applicant wants to go to the expense to do this now and then, at their own expense, do it again later, I'm not following... I mean, it seems to me that's the applicant's decision. I'm not following why staff would oppose that.

Mr. Hess: Well, again, I mean, it wasn't just...

Ms. Kirkman: Because they proffered the right-of-way, right?

Mr. Hess: Well, we've conditioned, yes, we've conditioned the right-of-way of the seventy-six feet. We are in the position of doing the conditions; it's not like proffers like a rezoning.

Ms. Kirkman: Right, that's correct.

Mr. Hess: And there were other outstanding concerns with VDOT. Unfortunately I didn't get their letter, their letter that they promised me. I did get it finally late Friday afternoon after I left so I saw it on Monday. And they also had some concerns about the location of the pump islands and how close they are to the right-of-way. They do have standards apparently. They were saying that they were not going to be meeting the standards from edge of right-of-way to where the pumps were being proposed. They had a concern about what the outbound proposed directional lane, which is the one that they are proposing to build in the first phase. There was a list of outstanding concerns that VDOT had with the Phase 1 proposal.

Ms. Kirkman: But we don't have those.

Mr. Hess: Again, I got those after the packages had already gone out.

Ms. Kirkman: So, did you bring copies tonight?

Mr. Howard: But do you have them today?

Mr. Hess: I do have a copy, sorry.

Mr. Howard: Can you read to us what the concerns were?

Mr. Hess: I certainly can try. Let's see... they say the GDP of Stafford Lakes Service Center has major differences with the VDOT project, and it gives a project number which we just showed you. It says the overall design for this project will not meet the minimum access management requirements for spacing per the VDOT Road Design Manual Appendix F. It appears that major utilities will have

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to be relocated from beneath the proposed pavement widening. It says the construction of additional lanes on Route 17 and Route 654 will necessitate the relocation of some major underground utilities. Also it goes on to say that the addition of new travel lanes on Route 17 northbound and Route 654 Berea Church Road eastbound may require the adjustment of existing traffic signal at the intersection of Route 17 and Route 654. Should that be the case, the Department's Northern Region Traffic Engineering Office will be required to view those plans. Number 8 says the outbound lane of the proposed directional entrance on Route 17 will not be approved because of the potential to increase the merging of traffic from the proposed entrance/exit to the potential U-turn movement at the intersection of Route 17 and Route 654, and it does not appear to meet VDOT's spacing requirements per the Road Design Manual Appendix F. And it says please note that the gas pumps perpendicular to the right-of-way must have a minimum of thirty feet from the pump island right-of-way. Pumps that are parallel will require only twelve feet spacing from the island to the right-of-way. And that summarizes their comments; they had about eleven of them.

Mr. Howard: What is the distance of the pumps today, do you know?

Mr. Hess: I do not know.

Ms. Kirkman: It seems like there are a lot of shoulds, ifs and potentials in there.

Mr. Hess: Sure, because the design for the Route 17 widening project is not finalized. It's still going through the process of being changed here and there and there is no way of telling what the final layout is going to be, because we are still a couple years off of it.

Ms. Kirkman: So, is the property owner... I mean, it seems like you're saying the property owner just can't do what he wants with his property while VDOT makes up its mind.

Mr. Hess: I'm not saying that at all. I'm saying what looks as though when VDOT does widen this road it's going to be right where that canopy is existing today where the canopy is being proposed in Phase 1.

Ms. Kirkman: Thank you.

Mr. Howard: Any other questions of the Planning Commission?

Mr. Harvey: Mr. Chairman, staff is making copies of that memorandum and we'll provide it to the Commission during the meeting. I apologize for not having it to you sooner.

Mr. Howard: Great; thank you Mr. Harvey. We can now hear from the applicant.

Ms. Karnes: Good evening Planning Commissioners, Ms. County Attorney and Mr. Planning Director. My name is Debrarae Karnes; I'm an attorney with Leming and Healy and I'm here representing the applicant. I've organized my presentation around one theme and I think at least some of you are already there. And the theme is why? As you heard staff discuss, this is an existing nonconforming site. Computer please. Can we show the aerial? Notice that this small site which is hampered by being adjacent to three roads, what is noticeable about it is the lack of buffer and landscaping in front of it. Even though it's near Celebrate Virginia, Geico, some prime redevelopment sites, this site, ladies and gentlemen, is ugly and an eyesore right now. And the applicant is proposing to upgrade it. Can we show the picture of the site? I guess the first picture. Very little green in front of it, no street trees, a horrendously large canopy. Now, you heard the representative from the County talk about how the applicant plans to turn this canopy. That, in fact, is not true. You can observe from the General Development Plan that this canopy will have to be removed and a new smaller one sitting parallel to the road will be erected. And there's a reason for that. Really, I think the most important planning concept with a gas station is circulation; getting the cars in and out so that they're not a stacking problem; getting the tanker truck in and out of the site. By keeping the existing canopy, which we really tried to do, we did not have two-way circulation on either side of the pump. The combination of

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putting in a front buffer, putting in front landscaping in Phase 1, changing out the canopy, is going to significantly increase the appearance and aesthetic appeal of this site. In addition, improvements that were recommended when we went and showed this plan to VDOT, closing the northern most entrance on Warrenton Road, closing the entrance on Berea Church Road and converting the existing southernmost entrance on Warrenton Road to a right in/right out only significantly enhanced the desirability of this site, including putting in a right turn lane the entire length of the property. All of this accrues benefits to the County right now and doesn't defer effective use of the site until such time that a VDOT project can begin. So, staff wants right-of-way dedicated now and my question is why? Well, it's their policy, first of all, to require right-of-way all the time. And ninety-nine percent of the cases I would say that makes sense. But, in this case, the applicant approached them and said we're willing to dedicate right-of-way when VDOT needs it. Let me operate now. And, of course, as Mr. Hess explained, the vehicle for doing that is going to be a condition, not a proffer, just because this is a Conditional Use Permit. But the offer was voluntarily made. So, VDOT gets the right-of-way it needs, the applicant, at his own risk by the way, gets to operate and improve the site before then. You know, why not approve it now? But we can ask the other question; why doesn't the applicant just go to Phase 2 now? Mr. Chairman, the applicant is a small businessman. He owns two other gas stations. He can't afford to go to Phase 2 now because that is going to require the demolition of the existing auto service center. It's as simple as that. His business model needs for him to be in operation for two years. And, by the way, another why. I think we heard Ms. Kirkman two meetings or so ago ask in another meeting why doesn't an applicant buy the land before getting rezoning approval? And I think the answer she got was all the big guys make sure they don't buy the property before getting the rezoning or the Conditional Use Permit. But my client is a small guy; just two other gas stations. He bought the property in good faith thinking the Stafford location was a good business. That's why we're here standing before you tonight. So, we're back to the question; why does the County need the right-of-way now? Well, Mr. Hess also thinks... he recommended that we go to Phase 2 now simply because the construction, the initiation of the project will start in 2011. Well, but what is not coming out is that the project is not fully funded. This project, by VDOT standards, will cost approximately \$40 million and the VDOT people estimated at least \$30 million short. And so it might not happen in 2011. And even if it did, it would be the acquisition of right-of-way that would start; the actual Phase 3, which is the advertisement of the contract for construction which is when they want all their final designs concluded, is going to happen at best if full funding is achieved in 2014. And by the way, you heard about the entrance design from VDOT which showed the parcel being split in two. When I contacted VDOT on Friday and I advised Mr. Hess of this and asked him to confirm, the VDOT design representative told me that wasn't final and, by the way, it wasn't a road and wasn't meant for cut-through. It was just the designer playing around and there would be several more iterations before any design was finalized. If we follow staff's recommendation, you would be looking at an approval for Phase 2 with a condition that said the entrances would be per VDOT design that is in no way finished. So, how is the applicant supposed to know what kind of entrances to design? But, you know, I skipped around a little in that don't necessarily rely on me to give you the budget numbers. I have a memo here from Mike Neuhard, Deputy County Executive, and he summarizes that they are at least \$20 million short and I'll give this to Joey and ask him to give it out to you. And talking about memos, by the way, I've never seen the Monday memo that Mr. Hess got from VDOT, which is kind of a little unfair. However, we're here to ask you to let the applicant take the risk, build the improvements, operate now. He will dedicate right-of-way when VDOT needs it, at his own risk. But let him make the investment and operate now. To that end, I am suggesting changes in three conditions because staff didn't prepare any conditions that would permit the operation of Phase 1. And the change would be number 1 in condition 2 where it talks about development will be in accordance with the GDP for Phase 2. And then in addition, two changes concerning the entrances. And I'm going to have Mr. Hess distribute these copies as well. One involves the dedication of right-of-way; the applicant shall dedicate the seventy-six feet of right-of-way. And I'm not going to read the whole thing, but upon written request to VDOT but no sooner than sixty days before the advertising for bid dates of Phase 3 advertisement for construction for the Warrenton Road expansion. And you know where I got the "upon written request to VDOT"? Do you know where that came from? I called the right-of-way guy at VDOT and I said you tell me, what problems would you have with this concept that I propose? And he said my first problem would be if the project wasn't done. And so they would never dedicate right-of-way because even if we requested it they wouldn't do it. And that's why I have in here "upon

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written request to VDOT". The second one deals with access. Now, remember I talked about how circulation is important in a gas station and you gotta get the tanker truck in and out? You need two entrances to do that. So, in the entrance scheme proposed by the applicant, the tanker truck would come in from Warrenton Road and go out Fleet Drive. My engineer is telling me that that's necessary for a tanker truck circulation. Now, you guys asked two or three questions; one involved the sale of diesel. Diesel sales are scheduled to be held. One involved the Phase 1 and Phase 2 studies; my applicant has just told me those have been done. I haven't seen them but they're lying in his files ready to be submitted as part of the site plan. And the third issue that came up was the distance of the pumps from the highway, the road. Now, the pumps are too close according to the standards that Mr. Hess read in Phase 1, but a little too close; twenty-five feet versus thirty feet required. I'm not sure how that's relevant when we're talking about a future road. What's relevant is what's in Phase 2 and the engineer is telling me that the pumps in Phase 2 are located some forty-five feet away. And I don't have the memo but it seems to me that that sounds like that meets the standards that the VDOT memo enunciated. So, having said all of that, with an applicant ready to work with the County to make this site work, I ask why are we talking about not letting the applicant improve his property now in a way that benefits the County at his own risk? Now I have the memo. I will be happy to answer any questions.

Mr. Howard: Thank you. Ms. Karnes, the memo that you asked Mr. Hess to hand to us, not the email copy but the proposed changes, you verbalized a change, I thought you did, on item number 2 on the proffer which was "the site shall be redeveloped in accordance with the GDP Plan Phase 2". But that's not on here.

Ms. Karnes: No.

Mr. Howard: Okay. So you're still proposing that, it's just not on your handout.

Ms. Karnes: Yes.

Mr. Howard: Okay. And then I have a question; I'll turn it back to the Commission and other questions. In the Phase 1 rendering, I'm not understanding this that's why I want to get some clarity. The canopy that goes up over the pumps in the Phase 1 rendering, the pumps are perpendicular to Route 17, correct?

Ms. Karnes: Right.

Mr. Howard: Is that in Phase 1 as well?

Ms. Karnes: Let me take a look because I don't want to give you wrong information.

Mr. Howard: Yeah, it's not clear. Or are they parallel?

Ms. Karnes: Actually, I'm going to have the engineer come up.

Mr. Howard: Perfect.

Ms. Karnes: The point is, though, the canopy is located directly over the pumps. If you look at your GDP you will see a big square and that's the existing canopy and that's going to be demolished.

Mr. Howard: Right, and then a new one goes up that's green and white.

Ms. Karnes: Yes.

Mr. Howard: Okay. But I just want to understand the pumps and then the circulation around the property as well. Well, really for Phase 1 I'm trying to understand that.

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Ms. Karnes: Okay. The travelways are...

Mr. Howard: I have that; I have other questions. I just want to know about the pumps; are they parallel or perpendicular in Phase 1?

Ms. Karnes: Perpendicular?

Mr. Howard: Perpendicular? Okay. So then the canopy actually will be moved and relocated because that's a different... the subject site of the pumps on Phase 1 is a different location than the canopy exists today.

Ms. Karnes: Yes. And so you say relocated but that to me says we are moving the existing canopy and we can't do that.

Mr. Howard: I got it, you can't do that; fine. Then you mention about the fuel truck coming on the property. In Phase 1 it would make a right in off of Route 17 and still would exit off of Fleet Road, is that correct?

Ms. Karnes: Yes.

Mr. Howard: And there is enough turning radius for a tractor-trailer to turn, because there is also... I can't tell if it's a garbage dumpster or there is some type of structure that this truck has to pass at some point and the engineer believes that an 18-wheeler can make that movement?

Ms. Karnes: Yes.

Mr. Howard: Okay. Alright, are there any other questions? Mr. Hirons?

Mr. Hirons: I have a question about in Phase 1 it mentions inspection waiting line on northern end? I'm trying to figure out where that is because it's such a small piece of property, a small island there, I'm trying to figure out how many cars will be able to queue up in that line, because inspections typically you can get, especially at the beginning or end of the month, five, ten, fifteen cars lined up on a Saturday morning. Will the queue run out into Fleet Road or even towards Warrenton Road?

Ms. Karnes: Well, the queue is not going to run out onto any road. But I have a question of the engineer. Wasn't that eliminated in the last phase? Yeah, that's what I thought. We've gone through several iterations. The first iteration involved keeping the existing canopy. When we had the existing canopy retained there was a specific dedicated stacking lane that has since been eliminated. So, if there's any reference in any of your materials to that, that should be now deleted.

Mr. Hirons: Okay. You did say diesel fuel is in the plans to be sold?

Ms. Karnes: That's correct.

Mr. Hirons: And you had said you had not seen the VDOT letter?

Ms. Karnes: It was handed to me...

Mr. Hirons: That's the first time you've seen it?

Ms. Karnes: Yes.

Mr. Hirons: Okay, I think that all the questions I have.

Mr. Howard: Okay. Any other Commissioners have questions of the applicant?

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Ms. Kirkman: Yes, Mr. Chair, I do. This property is currently zoned B-2. The current use is automobile service, is that correct?

Ms. Karnes: That's correct.

Ms. Kirkman: And how many years has that use been in continuous use on that property?

Ms. Karnes: Let me introduce the current owner, Raj Kapoor.

Mr. Kapoor: I think it was built in 1980.

Ms. Kirkman: And when was our Highway Corridor Overlay District passed?

Mr. Harvey: I believe for the Route 17 corridor it was in the 1995/1996 timeframe.

Ms. Kirkman: Well, you being from the slick land use company that you are from, tell me why I'm wrong on this. But I have to tell you, I don't understand why we're here. And the reason why I don't understand why we're here is I'm reading the definition of automobile service which says "a building or premises where gasoline, oil, grease, batteries, tires, brakes, mufflers and/or vehicle accessories may be installed, supplied or dispensed at retail". That seems to imply that gasoline sales are included in the use of automobile service and it's been in that continuous use for decades. So, why are we here? Aren't you vested against the Highway Overlay Corridor District?

Ms. Karnes: I think we certainly are entitled to not fully comply with the HCOD requirements. We have been advised by the Zoning Administrator that a Conditional Use Permit is needed because of the need to install or reinstall the fuel pumps.

Ms. Kirkman: But it's in the definition of your current use.

Ms. Karnes: And, I think for the first time in what, two years, I can say I totally agree with you.

Ms. Kirkman: Make it about eight Debra.

Mr. Howard: Well, Mr. Harvey, can you clarify the question that Ms. Kirkman asked?

Mr. Harvey: Yes, Mr. Chairman. In the Zoning Ordinance we have a separate use referred to as vehicle fuel sales and that's how this is categorized. The vehicle fuel sales that once had occurred on the property ceased and there was no Conditional Use Permit prior issued for that activity. And the Zoning Administrator has determined that a CUP is required for the selling of the vehicle fuel.

Mr. Howard: Thank you. Mr. Harvey, also Mr. Hess mentioned that, I thought he mentioned this, that actually today there are some nonconformity to the property or to the structure? Legally nonconforming was the term that...

Mr. Harvey: Could you repeat the question please?

Mr. Howard: Yes. Mr. Hess referred, in his presentation, to the term "legally nonconforming" and I didn't understand that. And Ms. Kirkman brings up a very good question. I'm trying to understand why that term was used also in the presentation. And if you can't answer, we can obviously ask Mr. Hess.

Mr. Harvey: I believe Mr. Hess was referring to the existing structures in relation to the building setbacks. The existing canopy violates the front yard setback and I believe maybe the existing structure has a front yard setback violation along Fleet Road as well. So, those structures are nonconforming and they can continue to exist in their nonconforming state.

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Mr. Howard: Right, as long as there are no changes or modifications, which would be another reason why you would be here. Okay.

Ms. Kirkman: So, but I'm looking for a definition of vehicle fuel sales and there's no definition in our Zoning Ordinance of that. And it does seem to be included in the automobile service definition. When was that zoning determination made?

Ms. Karnes: It was made last year.

Ms. Kirkman: And you didn't appeal it?

Ms. Karnes: No.

Ms. Kirkman: So you're stuck with it. Okay, your choosing.

Mr. Howard: Are there any other questions of the applicant? I have just one more. Again, this is for clarity. I'm trying to understand, I certainly understand a small businesspersons perspective, but I don't understand the desire to build something that has to be changed. So, and maybe I misunderstood that, so if Phase 1 were to be accepted and then you proffer Phase 2 at such time VDOT's ready, whatever language would change in the proffer, I'm not sure I understand what actually has to change physically for the applicant, for that business. What physical changes would have to happen from Phase 1 to Phase 2?

Ms. Karnes: The big change is the demolition of the existing building and the construction of a smaller kiosk, 500 square feet or so.

Mr. Howard: And is that why you're waiving the state inspection use because ultimately you won't be doing that on the property as well?

Ms. Karnes: I don't think we're saying we're doing away with it in Phase 1, but certainly it won't be happening once it converts to Phase 2.

Mr. Howard: Right. Isn't that function taking place today on that property?

Ms. Karnes: Yes, it is my understanding.

Mr. Howard: I believe it is. Okay.

Mr. Rhodes: Mr. Chairman, just to clarify... but you will, in Phase 2, move the pumps as well? So you'll move the canopy and the pumps?

Ms. Karnes: That's correct.

Mr. Rhodes: And you said you will not have that inspection queuing lane?

Ms. Karnes: That's correct.

Mr. Rhodes: So, is there a different set of these without those?

Ms. Karnes: There should be, yes. What is the date of the plans that you gave them? If it's there, it's an error; that will not occur. If it's there, it's an error; it was deleted and shouldn't be there.

Mr. Howard: Okay. Thank you.

Ms. Karnes: Thank you.

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Mr. Howard: We'll bring it back to the Planning Commission for discussion.

Ms. Kirkman: Mr. Chair, just a point of order. I think you have to open the public hearing for discussion.

Mr. Howard: Oh, thank you. You're right. Now I'll open up the public hearing for the matter before us which is the CUP2900195, Conditional Use Permit for Stafford Lakes Service Center. Anyone wishing to address the Planning Commission may do so by stepping to the podium. You just need to state your name, where you live and you have three minutes. When the green light goes on you are free to speak. When the yellow light comes on you have about a minute left. And then when the red light comes on we would ask that you conclude your comments. And we will not address you directly but you're more than welcome to come forward and share your thoughts and opinions with us.

Paul Sisson: I've been a twenty-plus year resident of this County. I've seen a lot of changes as I'm sure all you have as well. Stafford 610 was a two-lane road and now it's a 95 major road. At any rate, I understand the Board's concerns, I understand the applicant's concerns. I worked for the applicant at one of his other stations for fifteen years approximately. And I think Ms. Kirkman gets it; I think some of these other people get it. I really can't believe what I'm hearing about some of the comments tonight, what VDOT wants. Seems like what VDOT wants, VDOT gets. That's not always the case. One proposal like the attorney brought up, they want to split their property in half. That is crazy. If someone came to your house and wanted to split your house property in half, I think you'd have a problem with that. And I think the applicant does too. That's just a proposal that somebody has drawn up. It's not going to work on this property. There are many other benefits to this that our applicant, Mr. Kapoor, wants to do and I see two clear options in front of the Board. One, we do nothing. You leave the property as it is as an auto repair facility. Not a great looking location at all. Not a functional location. It's a nonconforming location and that's it. The second option is to improve it. So, do we leave it like it is or do we improve it? I think everybody would agree that we want to improve it. My owner has the money to improve. He wants to improve it. So, the next step in my mind is if everybody agrees, let's improve the site for everybody's benefit; the County's benefit, the applicant's benefit and the citizens of Stafford's benefit. There are only two questions at that point; do we do Phase 1 or Phase 2? And again, Phase 2 is not an option at this point I don't think right now for our applicant. Phase 1 makes the best sense and makes the best benefit to the County, the citizens. It will improve the look of the site. It's a win-win for everybody. And if the applicant... he's already told you all that he will comply with VDOT's setbacks at that time, I don't see what the problem is. I think everybody is over-thinking this too much. And in closing, to quote a former Chairman, Bob Gibbons, who I think everybody knows well, he said "Stafford is a business-friendly environment". Let's hold up that part of it and let's be a business-friendly County and let's improve this site. Thank you for your time.

Mr. Howard: Thank you. Anyone else wishing to address the Planning Commission on the public hearing which is CUP2900195, Conditional Use Permit for Stafford Lakes Service Center may do so by stepping up to the podium. Seeing no one else advance towards the podium, I will close the public hearing and bring it back to the Planning Commission for discussion. Mr. Hirons?

Mr. Hirons: Mr. Chairman, we've just gotten quite a bit of information kind of thrown at us between the VDOT concerns, the information the applicant has given us and I guess the information the County gave us. Frankly, I'm not ready to digest all this. I haven't been able to digest all this new information into this to make a good decision on this, so I'm going to ask that we defer until our next meeting. I think I'd like to ask to meet with the applicant, applicant representative and staff to address some of the concerns of the issues going back and forth between them and VDOT. Quite frankly, I'd also like some clarification on the issue Ms. Kirkman brought up, where this lies within their by-right issue.

Mr. Howard: Right, and that could be a moot issue because the applicant has accepted that ruling. But, you want to make a motion Mr. Hirons?

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Mr. Hirons: If no other Commissioners wish to have discussion prior to that, I'm ready to make a motion. Move to defer a decision until our July 7th meeting.

Mr. Howard: Any second?

Mr. Fields: Second.

Mr. Howard: Second by Mr. Fields. Any discussion on the motion?

Ms. Kirkman: Mr. Chair, I would like to get clarification from staff on something.

Mr. Howard: Sure.

Ms. Kirkman: When did VDOT receive the GDP for review?

Mr. Hess: The applicant, the latest date was May 7th, 2010, I'm not sure what day that fell on but it was a matter of a couple days that I took a visit down to VDOT and gave them two GDPs to review.

Ms. Kirkman: And were those GDPs substantially different in any way from previous GDPs? In terms of the things VDOT looks at?

Mr. Hess: The Phase 2 was something that came rather late in the game. It wasn't always a Phase 2, it was always a Phase 1, then a Phase 2 was brought into it in the later versions. I don't know if that was January's version that Phase 2 came into play?

Ms. Karnes: It came in pretty earlier than May.

Mr. Hess: Did it? Okay, but there wasn't six pages of the GDP.

Ms. Karnes: You've seen Phase 2 before I believe.

Mr. Hess: But that wasn't originally submitted, I don't think.

Mr. Howard: Well, actually we have a motion that's been seconded and we're trying to discuss it as a Commission. We can ask you questions but we don't want to get into a debate with the applicant.

Ms. Kirkman: I was just trying to understand if VDOT's been so concerned about this, why it got dropped in at the last minute.

Mr. Hess: They've seen I think three versions ultimately. We've had this case since July, August of last year, so they've seen the different versions. It's been sent onto them and we haven't always received comments from them. We did have Sara Woolfenden at the time who was communicating with them but we no longer have her.

Ms. Kirkman: Thank you.

Mr. Hess: You're welcome.

Mr. Howard: Great. Any other discussion from the Commission? Okay, hearing none we'll call for the vote. All those in favor of Mr. Hirons' motion to defer CUP2900195, Conditional Use Permit, Stafford Lakes Service Center, to July 7th signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

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Mr. Fields: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. All those opposed signify by saying nay. The motion carries 7 to 0. Thank you. The next public hearing is an amendment to the Zoning Ordinance which is to amend Section 28-273(a) which is Nonconforming Structures. We'll ask that staff come forward and give their presentation.

11. Amendment to Zoning Ordinance - Amendment to Section 28-273(a), Nonconforming Structures, of the Zoning Ordinance pursuant to proposed Ordinance O10-33. This will provide the owner of a single family residential structure as a by-right use to enlarge or alter the structure including any proposed increase in square footage, provided that there be no increase in the nonconformity. **(Time Limit: July 20, 2010)**

Mr. Harvey: Thank you Mr. Chairman. Ms. Hudson will be giving a presentation.

Ms. Hudson: Good evening Chair, members of the Commission. The Amendment to the Zoning Ordinance, Section 28-273(a), the current Ordinance currently states that the owner of a single-family residential structure may apply to the Board of Zoning Appeals (the BZA) for a special exception when the requested improvements will not increase the nonconformity, and the Comprehensive Plan, as in existence at the time of application, does not envision a change in the character or use of the district. The Board of Supervisors desires to allow improvement to nonconforming single-family residential structures, including any proposed increase in square footage that will not increase the nonconformity as a by-right activity therefore deleting the BZA process of special exceptions. I think it was the May 15th meeting, I had a little Power Point that I showed you showing what it means not to increase the nonconformity. If you wish to see that again this evening, we can pull it up for you.

Mr. Howard: Anyone have a desire to see that presentation? No? Okay, no thank you.

Ms. Hudson: Okay. Staff does recommend approval of this code amendment. If there are any questions, I will be happy to answer.

Mr. Howard: Great. We'll open it up for questions. Does the Planning Commission have any questions for staff? Mr. Fields?

Mr. Fields: Is there a specific reason... how is this played out? This is just for information. I know this is specifically to single-family residential structures; is there a reason why a similar type of leeway wouldn't be granted to other types of structures, other types of nonconforming structures? I mean, what was the logic between one specific category?

Ms. Hudson: When the code was amended a few years ago to allow special exceptions for nonconforming structures, it was directed exactly for the single-family dwellings. I don't believe we've ever discussed any other types of structures.

Mr. Fields: Alright, thank you.

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Ms. Hudson: That was a request from the Board of Zoning Appeals that went to the Board of Supervisors.

Ms. Kirkman: We were having to do variances and the threshold at that time was very difficult to meet.

Ms. Hudson: Yes, you're correct.

Mr. Fields: Okay, thank you.

Mr. Howard: Great. Any other questions from the Planning Commission for staff? Ms. Kirkman.

Ms. Kirkman: Yes, Mr. Chair. I actually do know the history of this a little bit. And I guess my concern, Rachel, and I'd like to hear your comments on this, is the whole notion of nonconforming structures is that over time you want to do away with them and eventually bring whatever's on the property into conformity with the current law, right? And that's why we have these laws about nonconforming structures. The special exception process at least gives the opportunity to negotiate around some reduction or change in the nonconformity. Wouldn't that be eliminated if there's no longer a special exception and it becomes a by-right use?

Ms. Hudson: One could not increase the nonconformity, as you know. You could add onto the structure as long as you did not increase the nonconformity.

Ms. Kirkman: But under the special exception process, the BZA had the ability to... they can impose conditions, right, for a special exception?

Ms. Hudson: They can impose reasonable conditions.

Ms. Kirkman: Right. And so some of those conditions could relate to do with reducing or eliminating the nonconformity.

Ms. Hudson: I don't think I've ever seen that.

Ms. Kirkman: I'm not saying they ever exercised that because there were actually very few of these special exceptions that even came in front of the BZA. I think there's maybe been four or five; it's been a very small amount. But my concern is just in terms of preserving the integrity of trying to eventually move things towards more conformity with the current law. What's your comment on that?

Ms. Hudson: I don't have an issue with this.

Ms. Kirkman: Okay.

Mr. Howard: Any other questions of staff? Hearing none, we will open up the public hearing for the Amendment to the Zoning Ordinance, Resolution R10-119, and proposed Ordinance O10-33. Anyone wishing to address the Planning Commission on the public hearing that is now open may do so by stepping forward to the podium and you have three minutes. When the green light goes on when you step to the podium, state your name and address, the light will go on and when the yellow light comes on you have about a minute. And when the red light starts to flash we will ask that you conclude your comments. Anyone wishing to comment on this may do so now. Seeing no one advance to the

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podium, we will now close the public hearing and bring it back to the Planning Commission. Are there any Commissioners that wish to comment on the Amendment to the Zoning Ordinance that's before us? Okay, no comments, no questions. Would anyone like to make a motion?

Mr. Mitchell: Mr. Chairman, I make a motion for proposed Ordinance O10-33. I believe that's the correct one. Or is it the Resolution?

Mr. Howard: Well, it's the Amendment to the Zoning Ordinance to amend Section 28-273(a) and pursuant to the proposed Ordinance which is O10-33.

Mr. Mitchell: Okay. I make a motion for approval.

Mr. Howard: Is there a second?

Mr. Rhodes: Second.

Mr. Howard: Any discussion? Hearing no discussion, I will call for the vote. All those in favor of Mr. Mitchell's motion which is to approve the proposed Ordinance O10-33...

Mr. Fields: Actually, Mr. Chairman, I'm sorry, before we vote, I apologize, I'm just still digesting this issue a little bit. I do have one question. Is the... obviously, in a by-right development, of course, if you're doing any type of construction, you have to have building permits and stuff like that. Is there, and this is really kind of a question I guess for Ms. Hudson, is there any difference in the enforceability of not increasing the nonconformity between a special exception in a by-right in terms of codes' ability to enforce the requirements?

Ms. Hudson: I don't believe so Mr. Fields. We'll be reviewing the permit application, of course, and looking at the plat, looking at what's nonconforming where the proposed increase is going to be. I don't think that's going to be a problem.

Mr. Fields: Okay, thank you very much. Thank you Mr. Chairman.

Mr. Howard: Thank you Mr. Fields. Thank you Ms. Hudson. So, going for the vote, all those in favor signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Fields: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Those opposed signify by saying nay. The motion carries 7 to 0. We will now open the public hearing for Amendment to the Zoning Ordinance, which is to amend Section 28-25,

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Definitions of specific terms, of the Zoning Ordinance to proposed Ordinance, which is the one that is before us tonight, O10-35. Ms. Hudson?

12. Amendment to Zoning Ordinance - Amendment to Section 28-25, Definitions of specific terms, of the Zoning Ordinance pursuant to proposed Ordinance O10-35. The Virginia Code was amended, making a “written order, requirement, decision, or determination” by the zoning administrator or other “administrative officer” the permissibility of a specific use or density a significant affirmative governmental act for vesting purposes. These terms will be specifically defined. **(Time Limit: August 3, 2010)**

Ms. Hudson: Yes, the Virginia General Assembly adopted House Bill 1250 on April 9, 2010 amending Section 15.2-2307 of the Virginia Code making a written order, requirement, decision, or determination by the Zoning Administrator or other administrative officer regarding the permissibility of a specific use or density a significant affirmative governmental act for vesting purposes. This Bill did not define what constitutes “a written order, requirement, decision, or determination” or who an “other administrative officer” would be. The Board of Supervisors did ask staff to develop new language to the Zoning Ordinance to address their concerns regarding this House Bill. Therefore, proposed Ordinance O10-35 would define “other administrative officer” as the Director and the Assistant Director of the Department of Planning and Zoning which would limit the number of government officials that could make decisions that are affirmative governmental acts. The proposed Ordinance O10-35 would also define what constitutes a “written order, requirement, decision or determination” which states in the proposed Ordinance “a letter written by the Zoning Administrator or Administrative Officer to an individual, sole proprietorship, partnership, corporation, or any other legal entity regarding the permissibility of a specific use or density. A zoning verification is not a written order, requirement, decision, or determination”. Staff does recommend approval of the proposed Ordinance. Do you have any questions?

Mr. Howard: Thank you Ms. Hudson. Are there any questions of staff? No questions? Okay, I’ll open up the public hearing related to this matter. So, the public hearing is now open for the proposed Resolution R10-129 with the proposed Ordinance O10-35. Anyone wishing to address the Planning Commission may do so by stepping forward, stepping up to the podium, and again state your name and your address. And then the green light goes on and you have three minutes; basically when the yellow light comes on there’s a minute and when the red light comes on we’d ask you to conclude your comments. Anyone wishing to step forward may do so now. Seeing no one advancing to the podium, I will now close the public hearing and bring it back to the Planning Commission for discussion.

Mr. Fields: I’ll go ahead and offer a motion for Ordinance O10-35.

Ms. Kirkman: I’ll second.

Mr. Howard: Motion made by Mr. Fields and second by Ms. Kirkman. Any discussion? It’s a motion for approval, Mr. Fields?

Mr. Fields: Yes, motion for recommendation of approval to the Board of Supervisors.

Mr. Howard: Great. All those in favor signify by saying aye.

Mr. Rhodes: Aye.

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Mrs. Hazard: Aye.

Mr. Fields: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hiron: Aye.

Mr. Howard: Aye. Any opposed signify by saying nay. The motion carries 7 to 0. The next item that we have this evening for public hearing is... hold on Ms. Hudson, I have to say it officially... to amend Section 28-25, Definitions of specific terms of the Zoning Ordinance pursuant to the proposed Ordinance O10-35.

Ms. Hudson: This one is O10-36.

Mr. Howard: Oh, I'm sorry. I do have that one. So, this is amendment to Section 28-295, and which would be proposed Ordinance O10-36. Thank you Ms. Hudson. We got through those three very quickly. Wow!

13. Amendment to Zoning Ordinance - Amendment to Section 28-295, Zoning Administrator, of the Zoning Ordinance pursuant to proposed Ordinance O10-36. This will amend and reenact the time that must elapse between the notification of adjacent property owners and the making of a written order, requirement, decision, or determination made by the zoning administrator of other administrative officer. **(Time Limit: August 3, 2010)**

Ms. Hudson: Yes. This proposed Ordinance O10-36 goes along with the other one because of the House Bill 1250 that was approved by the General Assembly. This proposed Ordinance would clarify the time period in which the Zoning Administrator can make an interpretation or determination after a request has been filed with the County. Currently, the Zoning Ordinance specifies that the Zoning Administrator must wait at least thirty days between the notification of adjacent property owner, or adjacent property owners, and the making of the written determination. State law requires the Zoning Administrator must make a decision on any application within ninety days. The proposed Ordinance O10-36 would extend the time limit from thirty to seventy-five days. This extended time period would allow the Board of Supervisors the ability to change the zoning laws prior to the decision should it be found that the laws do not meet its current legislative intent. Staff notes that this provision would potentially delay any decision made by the Zoning Administrator regardless of whether the Board would view the outcome to have a positive or negative affect for the community. Staff does recommend approval of the proposed Ordinance.

Mr. Howard: Thank you Ms. Hudson. Area there any questions of the Commission for Ms. Hudson on this? Hearing none, we will now open up the public hearing related to item 13 on the agenda. Anyone wishing to address the Planning Commission may do so by stepping up to the podium and you have three minutes. We just ask that you introduce yourself, your name, where you live, the green light goes on, you have three minutes. The yellow light gives you about a minute and the red light is when you should conclude your comments. Anyone wishing to step forward may do so now. Seeing no one advancing towards the podium, we will now close the public hearing and bring it back to the Planning Commission.

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Ms. Kirkman: Mr. Chair, I make a motion to recommend approval of proposed Ordinance O10-36.

Mr. Fields: Second.

Mr. Howard: Motion made by Ms. Kirkman for recommendation of approval, seconded by Mr. Fields. Is there any discussion? Hearing no discussion, I will call for the vote. All those in favor signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Fields: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. All those opposed signify by saying nay. The motion carries 7 to 0.

Ms. Kirkman: Mr. Chair, could I add that the state law becomes effective July 1 that this is meant to address, and so if we could encourage staff to work with the Board of Supervisors to do whatever they can to get it on their first meeting in July. That would be prudent I think.

Mr. Howard: That's a great idea. Mr. Harvey is nodding; he will do that. So now the public hearings are closed for this evening and we can go back to the item that we were discussing with Mrs. Hornung. And we were on page 2 of the Amendments to the Zoning Ordinance O10-31. We were discussing really what do we want staff to do in terms of a definition.

4. Fees for Minor Revisions to Planning and Zoning Applications (**Time Limit: July 20, 2010**)
(**Deferred to June 16, 2010**) - Continued

Mrs. Hornung: Mr. Chairman, members of the Commission, I wanted to refresh your memory that at the last meeting, or two meetings ago, the May 19th, you did recommend that it be authorized for public hearing. So we did prepare the ad and it will go to the paper tomorrow unless you have other ideas that you feel the definition needs a change. Also, the time limit is July 20th. So, just to keep that in mind unless you want to go back to the Board and ask for an extension, we have time for that. But I just wanted to refresh your memory since we looked at this a couple meetings; the last meeting we didn't review this.

Mr. Howard: Thank you for the reminder. So, we're still on the definitions. I think we should just look at the document, the four that are on there, and understand. The public hearing notification I think went out today if I'm not mistaken.

Mr. Harvey: Mr. Chairman, we did send it to paper today but, if necessary, we can make minor adjustments if the Commission decides to make some modifications to the terms of the Ordinance. We can make those adjustments and it still can be published. So, we can make some minor adjustments

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but if there's a desire for an overhaul, staff would recommend the Commission consider a time extension.

Ms. Kirkman: Mr. Chair, could I ask the attorney some questions related to this?

Mr. Howard: Yes Ms. Kirkman.

Ms. Kirkman: So, Madam Attorney, is there a case law or... here is my concern. There are a couple of terms in here which seem to be open to interpretation and so I just wanted to get clarification about if there were a legal dispute. For instance, where would people turn to understand what the legal definition of material affect is?

Mrs. Roberts: To my knowledge and our office did work with staff during these amendments, no we did not find any definitions. It's going to be open to interpretation just like, for example, the reason we define tonight or suggested we defined what a determination and who the appropriate person is to make a determination. It would be the same type of scenario.

Ms. Kirkman: Okay. And then intensity; do we have definitions of that or are there things in case law that would, when we're talking about land... so there's nothing in case law about land use and intensity and what that means?

Mrs. Roberts: Case law would be fact specific. It wouldn't define intensity, no.

Ms. Kirkman: And the same goes for use and functionality?

Mrs. Roberts: Correct.

Ms. Kirkman: Okay.

Mr. Howard: Thank you. Are there any other comments or questions from anyone on the Commission? So, I guess, Andrea, the question I have is would there be a way when we go to public hearing that there is an example... I mean, I think item number 1 is self-explanatory but 2, changes do not materially affect site layout, what are some of the examples in case the public would want to understand that. And I don't mean the examples you highlighted for us, but a real example of this is an example of that. And then obviously changes that do not affect intensity, use or functionality of the site, some of the examples you cited today and then gave further clarification. So, in other words, this is not necessarily a black and white ordinance; there's going to be a dialogue between the applicant and the staff to talk about the current use of the property and/or the building and then what the modification change that's being proposed in terms of intensity and/or use. It could be similar like the bays that you mentioned earlier. Those could have been garages within that property or that parcel.

Mrs. Hornung: After looking through them further, maybe some of those that were highlighted were really not good examples when you look into it further.

Mr. Howard: Or to at least clarify so the public understands. It's certainly a change in the Ordinance; it's amending it. But it's not also necessarily black and white. It's sort of encouraging to come and have a discussion.

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Mrs. Hornung: Well, some of these, like number 2 and number 3 about materially affect the site layout, intensity, use or functionality, those are basically the similar language that's in the technical changes for preliminary plan. So, that's where that actually came from. So we were looking at how do we look at changes to a preliminary. Does it come back to the Planning Commission or does it fall under the tech change 22-67 ordinance of the subdivision which is from state code; which a lot of times, when you're looking at the request, you have to get more information and look at it in more detail. The functionality would be an example if you eliminate a road. The use is what is the use that's allowed for that project? If they're increasing the use or the intensity, it would be the item that is not the same as what's listed in the Table 3.1 of the Ordinance of what is there by-right or for rezoning, what is in that district? So some of it would fall back on... but I can look for some examples and give you an example of what might be a minor revision and if that minor revision was changed to, okay, if you had ten apartments and now you want to make twelve apartments but one of them was a duplex. Maybe that's not a good example. I'll find an example that would fit if you're revising something but you're not increasing by the definition for zoning what the use would be.

Mr. Howard: Okay, I think that would be helpful. Any other comments from any of the Commissioners? Great, thank you. So, we're on for the public hearing.

Mrs. Hornung: I probably should stay up here, right?

Mr. Howard: I don't think so.

Mrs. Hornung: The other two items? Are we going to do those later? The ones that were referred by the Board?

Mr. Howard: Actually, we do have to make a change, or at least... Mr. Harvey, do you want to do that at your update or would you want to see if we can get this on the agenda now?

Mr. Harvey: It's at your pleasure Mr. Chairman.

Mr. Howard: So, there are basically two minor Ordinance amendments that the Board referred to the Planning Commission at the June 1st meeting. Mr. Harvey did tell us this on June 2nd. They were supposed to be on the July 7th agenda; however, we would have to authorize a public hearing. So, these two items really need to be discussed tonight. But we have to vote as a group whether or not we want to add them onto tonight's agenda in order for us to really take the appropriate action.

Mr. Harvey: Yes, Mr. Chairman, I have, for your convenience, copies of the information at your desk with two separate memorandums. We have Ordinance O10-38 which adds the term spouse of an immediate family member to the definition of family member for purposes of the Subdivision Ordinance, Family Subdivisions. And also we have Ordinance O10-39 which deals with requirements for posting of securities. Both of them are mandatory provisions of the state code and we are required to incorporate those in our local ordinances.

Mr. Howard: Thank you Mr. Harvey. So, in order to make this official and meet the deadline to get this for public hearing, the Planning Commission would have to make a motion to have these added to this evening's agenda because we would be changing tonight's agenda. And once that's done then we would have to have an additional vote on whether or not to send to a public hearing and/or ask for more time.

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Mr. Fields: I'll make the motion to include both items for consideration on tonight's agenda.

Mr. Rhodes: Second.

Mr. Howard: The motion is made by Mr. Fields to include Amendments to the Zoning Ordinance O10-38 and Amendments to the Zoning Ordinance O10-39 and seconded by Mr. Rhodes. Is there any discussion? No discussion; I'll call for the vote. All those in favor signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Fields: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Those opposed, nay. The motion carries 7 to 0. So for the purposes of record keeping, these probably should be...

Mr. Fields: New Business 9b and 9c.

Mr. Howard: We could do that.

Ms. Kirkman: Mr. Chair? What happened to item number 5, Amendments to the Comprehensive Plan, deferred to June 16th?

Mr. Howard: We didn't get there yet. We didn't get to 4, 5, 6 or 7.

Ms. Kirkman: We did 4. We just finished with item number 4.

Mr. Howard: Correct. We didn't do 5, 6, 7 or 8. My point is these would go now to the agenda but we're not going to talk about them at this moment. So, in other words, they would go... we did the public hearings; we could either make it New Business items 14 and 15 or Mr. Fields' suggestion was 9a and 9b.

Mr. Fields: There are so many choices; I don't know how to organize this.

Mr. Howard: Why don't we make them 14 and 15 on the agenda, Stacie, and that's how it should be recorded. And then we have on the agenda we're back to the beginning of the agenda which was item 5 which is the Amendments to the Comprehensive Plan which we deferred to this evening. I know there's been some discussion by the one subcommittee. Mr. Harvey, do you want to address it or do you want Mrs. Hazard to address it?

5. Amendments to the Comprehensive Plan (**Time Limit: September 7, 2010**) (**In Comp Plan Committee**) (**Deferred to June 16, 2010**)

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Mrs. Hazard: I can start. It is our plan to have our intended last meeting tomorrow night to get all amendments and comments from this committee so that staff can have a working document for the Planning Commission for their first meeting in July. So there will be a final document that everybody can review and look through. So, our plan is for the July 7th meeting to have a document for everyone to review.

Ms. Kirkman: Mr. Chair, I have a question. Typically, materials for our meetings are not provided to us until the Friday and sometimes even the Monday prior to the meeting, and that's the weekend of July 4th. So will the committee be meeting and working with staff so that we receive the draft of the Comprehensive Plan well before that in order to have time to review it?

Mr. Howard: Good question. Mr. Harvey, do you know what the answer to that is?

Mr. Harvey: Mr. Chairman, Ms. Kirkman, right now the staff has had discussions that we would hand-deliver the plans on the Thursday before the meeting. If the Commission feels that it needs more time, we can try to back that up to give you more time to review the document.

Ms. Kirkman: Mr. Chair, I would suggest that given that that's a holiday weekend, that indeed we do need more time than that.

Mr. Howard: Well, I guess work as diligently as you can Mr. Harvey and the sooner, the better. We would all like time to go through it. I haven't looked at anything other than what's been published on the website.

Ms. Kirkman: Because the final comments are being made tomorrow night so that should...

Mr. Harvey: Yes, and then we'll have to modify the document to reflect those comments. So, we will again try to endeavor to get it out as soon as we can to the Commission. We understand that it's going to take some time to digest it and we are hopeful that we would hand-deliver it so we ensure that it gets to your house. We will try to get it sooner than we normally would.

Mr. Howard: That would be good if you can work that out. Thank you.

Mr. Harvey: Sure.

Mr. Fields: Were we going to ask questions tonight?

Mr. Howard: If you have some, sure.

Mr. Fields: Yeah, if I might, because I've never been able to attend any of these meetings because of the nature of my work. So I thought if I could just ask a couple questions of the committee primarily, and these may be OBE so if the remarks I'm making have already been deleted, please tell me and I will shut up and move onto the next one.

Mrs. Hazard: Give me a second to get my version because I didn't bring all my versions of where we were.

Mr. Fields: Okay. I'll be as brief as I can.

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Mrs. Hazard: I'll let you start.

Mr. Fields: On policy 1.1.7, this Plan should be implemented with respect to and consideration of private property rights. I just have a question in general about what that refers to specifically and are we using a technical legal construct of property rights or a more philosophical concept of property rights? It's a big topic, big set, powerful set of words loaded with philosophical and political implications. I'm just trying to get a handle around how that works inside a Comprehensive Plan.

Mrs. Hazard: Well, I think it will be a great discussion point for all parties to add their comments to that. I think it was thought of in the context of when several people made comments about how parks were and how making sure their private land was shown on those plans within the park setting. I know there were several letters that we had received about that. So, that was one area I know that that went to; there may be others. But that's one that comes immediately to mind, that we were trying to make sure that private property rights that were along park and other areas were also recognized. That was at least one of the letters that I know that we responded to. And there may be other comments by other members.

Ms. Kirkman: But, if you could clarify...

Mr. Fields: One second, Ms. Kirkman. Let me just follow-up if I may. I understand that. I think I would be very cautious about, I understood those peoples' frustrations; certainly everybody does. I would caution, before that becomes part of the document, I would caution that's inclusion because I think... property rights in terms of what people feel that the County should or should not do according to their personal feeling about personal liberty versus government authority is a different definition than the legal definitions of what property owners are entitled to and not to what legal authority governments have vis-à-vis those property rights. To include that in the Comprehensive Plan, which is a guiding visionary document, may be somewhat... I'm not sure that it really accomplished much because there is a whole world of land use case law regarding property rights and how they're administered. And there is the part that is not part of the legal structure of the Commonwealth, both in the code and in the case law surrounding the code, is possibly not appropriate for a document like the Comprehensive Plan. I mean, I think the assumption would be that all legal guarantees of personal property rights are there because the County is not going to act illegally. So, that's just a concern I have.

Ms. Kirkman: I am still trying to get clarification on what was meant by that term because my colleagues stated what prompted the inclusion of that term, but I still haven't heard the clarification if the intent was the legal sense of property rights or the broader political sense in which it's been used.

Mrs. Hazard: I'm not sure it was discussed in that sense. I think that there was an inclusion that there wanted to be some recognition of the property rights that individuals had come before us that they felt that they were not being heard. Now, whether we have said it correctly, I'm not sure. That's what I hope we can flush out in a discussion. But I think that there was a feeling that people were not feeling that part of it and so we're trying to get that issue out so we can address it and discuss it.

Mr. Howard: Well, I'll assure you also, not to interrupt Mrs. Hazard, but there'll be a complete full legal review of the document, I would think at this point, before it goes to public hearing. I'm not sure any of us are qualified other than Mrs. Roberts to comment on the legal term or the intent of a legal term. And I would also remind everyone that the state code of Virginia, 15.2-2223 clearly lays out how the Comprehensive Plan should be prepared and adopted, and the scope and purpose. And it's

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with that intent that that document is being prepared.

Mr. Fields: Okay, my next question is over here on 1.2.3, “proposals for extension of water and sewer outside the existing Urban Services Area”. I have here in red underline, which I assume means these are recent additions, shows this Chapter 2, page 2-4. I guess these are a list of the following specific criteria should be met when reviewing proposed Urban Services Area boundary expansions. And this is the new paragraph, “demonstration that extensions to sewer lines will minimize the potential impact of failing septic drainfields on the watershed”. I would also caution that because I would submit it probably is easily arguable that sewer is always going to minimize the impact of septic fields on the watershed because it takes all of the wastewater and funnels it to a wastewater treatment plant that is tightly regulated versus septic fields that even with good design and maintenance are by definition going to have a negative impact on the watershed. So, I would caution against a definition like that that is so broadly inclusive. I think you could demonstrate that under that criteria, at least as broadly as it’s stated here, without some incredibly technically specific criteria for determining what demonstration means, you could say that all the septic fields are a negative, because they all are. All septic fields are a negative impact to the watershed. They all have the potential to fail, some sooner than others, but eventually one assumes that most septic fields do stop working at a certain point even though it may be a long time in the future. So, I would caution against that, too, as a criteria for extension of the Urban Services Area because I think you can start making that argument for most any neighborhood; certainly for any neighborhood that’s forty or fifty years old or older. So, that’s another concern that I have.

Mr. Hirons: Mr. Chairman? I appreciate Mr. Fields’ input, but if we’re going to go page by page, I think that, and I don’t mean that in a literal sense, I know you’re not page by page, but you’re going through some printout you have, I’m not sure which version you’re currently working off of when you printed that. During our committee meeting last Thursday, we went through most of the chapters, most of the language that you’re talking about and we may have made changes that aren’t reflected if you didn’t print that out recently. Honestly I don’t even know if staff uploaded or had made changes and uploaded a version from discussion from last week. Mr. Harvey, do you know if Mr. Zuraf did?

Mr. Harvey: No sir, we have not uploaded anything since I believe it was towards the end of May, because I know we’ve had recent discussions and the committee felt that there was still things influx and wanted to wait until we had everything pretty much finalized before we put that out.

Mr. Hirons: Alright. So, Mr. Chairman, some of the members here are at a little bit of a disadvantage. Honestly, I don’t have my copy of the original draft nor do I have my copy of the latest revisions with me. And, quite frankly, having dealt with this now, working on this for over three months, it’s all kind of blurry to just hear it come out. I can’t remember if that was some change that we made three months ago or some change we made two weeks ago in detail. So, again I appreciate Mr. Fields’ input. I’m sorry he was never able to make either of the committee meetings. We would have appreciated the input then, but I think this discussion, this page by page effort, would probably be more productive and a better setting after all the members receive the draft of the Comp Plan...

Mr. Howard: Or he could attend the evening, I think you have another meeting Thursday.

Mr. Hirons: Right. Mr. Fields, I really don’t mean to offend you in any way...

Mr. Howard: Well, hold on Mr. Hirons. If there are any big or glaring issues that Mr. Fields wants to advance; I would also just remind everyone that the Comprehensive Plan, again, I go back to the State

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Code of Virginia, it states that it shall be general in nature. It doesn't say that it could be or should be, it says shall be general in nature and it shall designate the general and approximate location and character and extent to features and so on and so forth, it goes on. So, it is the intent of the Comprehensive Plan, according to the State Code of Virginia, to be general in nature in many, many instances throughout the document... just as a reminder.

Ms. Kirkman: Mr. Chair, I do agree with Mr. Hirons' comment that some of us here are disadvantaged by not being informed of the changes as they're made. Having been involved in this process for two years prior to this Commission coming on board it was the practice at that time to keep the Planning Commission fully informed of changes as they were made. So I am concerned that a decision has been made to not share that information until it's in its final form. That does seem a little late for input.

Mr. Howard: Yeah, I appreciate your comments, Ms. Kirkman, but there's some truth and non-truth in what you're saying. I was on the Commission and I wasn't getting the updates that you're mentioning; I'm not sure who was. But in any case, not to debate that here... Mr. Harvey, can you upload the latest changes on the internet? How long will that take?

Mr. Harvey: We can upload them tomorrow. As far as my question would be for the committee members as to what version do you want uploaded? What we completed as of what we handed out at last week's meeting or corrections to last week's meeting?

Mrs. Hazard: Probably corrections to last week's meeting.

Mr. Hirons: Yeah, I concur. The most recent that you have; the corrections if that's possible which it certainly should be.

Mr. Howard: Well, if somebody typed and changed the document. I'm sure you're making hand changes, right, and then somebody else is going and changing it.

Mr. Hirons: Yeah, and week to week we're being presented with all of our changes from the previous week, so I would assume our changes from last week are completed for presentation to us tomorrow.

Mr. Howard: Right, that's the one you should load and then after tomorrow get those loaded as quick as you can. This way, anyone who wants to access it can.

Ms. Kirkman: Mr. Chair, not to go page by page but two big concepts that are contained and new to this draft, I wanted to go to Policy 1.2.11 which states that at least eighty percent of the future cumulative residential growth should be located inside the Urban Services Area. And I was wondering what the committee's thought was about how they were going to make that happen given that so much of our area outside of the Urban Services Area is vested for growth now.

Mr. Hirons: Again, I think that's a generalized goal. It's something that actually we discussed a little bit or it would be an outcome of a little bit of a discussion at our meeting last Thursday. One of my concerns with the Plan as we first opened it at the beginning of this year was the implementation plan. There's no real implementation plan. That, I would think, would be something that would be in the implementation plan. We started discussing it last week. Frankly, we're not going to have enough time to really draft up and insert a good implementation plan, so the wording is probably going to be pretty much the same as part of the implementation plan of staff will present something within sixty or ninety days, I forget what the timeline is. But, quite frankly, I think that's just something that would

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be a part of the implementation plan and, because of the generalized nature of the Comprehensive Plan, it's a goal. I think it's a good goal to have and it's something that's measurable. And something that we'll have metrics on and we'll be able to judge how we're doing on that within five years of the review and then redrafts in the future.

Ms. Kirkman: Well, I wonder if it's somehow related to... throughout the plan in numerous places there's references to establishing water and sewer services outside of the designated Urban Service Area. And I suppose if you just keep moving water and sewer out and keep moving the boundaries of the Urban Services Area out bigger and bigger, then eventually it will encompass all your growth. Is that the thinking?

Mr. Hirons: Well, during discussion next week I'd like you to point out some of those because I don't think there are numerous places. There may be.

Mr. Howard: Well, I don't think the intent of the plan is to expand the Urban Service Area.

Mr. Hirons: Those expansions that we talked about are for existing neighborhoods that have failing drainfields and these types of things (inaudible). So, again, I think that's a more than appropriate discussion for once everyone has a copy of the plan of the output of the committee. Again, our committee meeting is tomorrow night, six o'clock. Do we know where it is Mr. Harvey? Will it be in ABC Conference Room?

Mr. Harvey: I believe that's the location.

Mr. Hirons: Okay. And that's a good time to open discussion with us as well or as the entire Commission receives it at our next meeting for discussion. I apologize; I just don't want to enter into specific discussion without having the draft in front of me.

Ms. Kirkman: I just think it's so unfortunate that's going to come out right before the holiday weekend.

Mr. Fields: And if we're scheduled for a September 7th joint public hearing, we get to discuss it on July 7th, one other discussion in August and then we have a public hearing. Sorry I can't come to the meetings, folks; I have to make a living, you know.

Mr. Howard: We all do Mr. Fields. If there's a need, as a body we can actually schedule... we only need five days to schedule a meeting. So, if there's a need to do that and that's the will of this body, we'll do that. So, we'll put another meeting on the calendar. Mr. Harvey and I have already discussed that. Okay, thank you. Item 7 is deferred to August 18th. Item 8...

6. Redevelopment Area Plans - Boswell's Corner, Courthouse Road, Southern Gateway and Falmouth Village (Falmouth Village in Committee - Peter Fields and Scott Hirons) **(Deferred at June 2, 2010 Meeting to July 7, 2010 Meeting)**

Mr. Harvey: Mr. Chairman? Staff has a request for item 6.

Mr. Howard: Did I miss another item? RDA? Yes, I did.

Mr. Harvey: Staff requests the Commission consider extending the deferral to August 18th. Recently

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our department met with the Economic Development Department to begin to work through the comments and questions and figure out how to deal with not having the graphics and pictures in the plan. And it's getting a little bit more involved than we first thought. So we would request additional time please.

Mr. Howard: Okay.

Mr. Fields: That's fine with me if it's fine with Mr. Hirons.

Mr. Hirons: It is. I was going to mention on that; I conferred with Supervisor Stimpson and she concurred that the outcome of the meeting I had with Mr. Fields and Mr. Johnson from Economic Development was the pictures were to come out of that. So, we understand that probably creates now additional effort and I'm fine with continuing to defer that until...

Mr. Howard: And I think staff needs to do a little more analysis on that as well. So, I understand that. Okay, so we need a motion then to, actually to request more time, is that correct? Or this is a self-imposed time limit from us.

Mr. Harvey: Self-imposed Mr. Chairman.

Mr. Howard: Okay, so we just want to... someone needs to make a motion for the August 18th.

Mr. Fields: Move to defer the Redevelopment Area Plans to August 18th.

Mr. Rhodes: Second.

Mr. Howard: Motion made by Mr. Fields, second made by Mr. Rhodes. Any discussion? Okay, all those in favor signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Fields: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed say nay. The motion carries 7 to 0. Thank you, Mr. Harvey. Item 7 was deferred and item 8 is deferred. And that brings us to... well, we'll go onto New Business because we added 14 and 15. So, we'll catch those after the New Business. So, New Business would be SUB2700206 Sycamore Hills Preliminary Subdivision Plan. Is there a presentation from staff on this Mr. Harvey?

NEW BUSINESS

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9. SUB2700206; Sycamore Hills - Preliminary Subdivision Plan - A preliminary subdivision plan for 30 single family residential lots zoned A-2, Rural Residential, consisting of 186.41 acres located on the north side of Raven Road approximately 4,500 feet south-east of Brooke Road on Assessor's Parcels 48-1 and 49-27 within the Aquia Election District. **(Time Limit: July 19, 2010)**

Mr. Harvey: Yes, Mr. Chairman. Mrs. Ennis will give a synopsis of the case to date.

Mrs. Ennis: I have an overhead power point but just of the overall, and that's all I have. Good evening Mr. Chairman, members of the Planning Commission. Item number 9 is presented before you from litigation filed by the applicant after the December 17, 2008 denial of a thirty lot A-2 preliminary subdivision called Sycamore Hills. The Consent Order referred the application back to the Planning Commission for further consideration. The preliminary was resubmitted on June 4, 2010, where the comments have been addressed where the comments addressed the lot layout and the key map legend. Please note the time limit for the action from the litigation is July 19, 2010. After staff review, we believe that the applicant has addressed all the deficiencies from the December 17, 2008 denial. Any questions?

Mr. Howard: Thank you. I'll bring it back to the Commission; are there any questions on the Sycamore Hills Preliminary Subdivision Plan? This is in Mr. Mitchell's district. Mr. Mitchell, do you have any questions of staff?

Mr. Mitchell: No sir, at this point I don't.

Mr. Howard: Okay. Are there any other questions?

Ms. Kirkman: Yes, Mr. Chair, I have a number of questions for staff. First off, I just wanted to... this is a major subdivision, is that correct?

Mrs. Ennis: Yes ma'am.

Ms. Kirkman: The plan depicts what is being labeled an ingress/egress easement. What's the purpose of that?

Mrs. Ennis: It's to provide access to the back. It was already created. The ingress/egress was already established there so it's an established easement that's there, that goes to the parcel and where it leads to the back.

Ms. Kirkman: So, it will be used to access the open space parcel that's in back?

Mrs. Ennis: Yes.

Ms. Kirkman: And also access an adjacent property?

Mrs. Ennis: Yes.

Ms. Kirkman: Could you explain to me, in staff's opinion, what the difference is between a private access easement and an ingress/egress easement?

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Mrs. Ennis: I don't have my ordinance in front of me by the definition.

Ms. Kirkman: Well, actually, I looked for a definition of ingress/egress easement and there doesn't appear to be one in our Subdivision Ordinance.

Mrs. Ennis: My opinion of an ingress/egress, if that's what you'd like...

Ms. Kirkman: I'd like to know what you think the difference between the two is.

Mr. Howard: Hold on one moment please. Mr. Harvey, would you answer... is there a definition of ingress/egress that you're aware of?

Mr. Harvey: Give me a second, Mr. Chairman. I'll verify in the Ordinance; I don't recall a specific definition for that purpose.

Mrs. Ennis: It's in the new one.

Mr. Howard: Mrs. Roberts, is staff qualified to actually define that?

Mrs. Roberts: No, but I think it's a term... ingress/egress is obviously an easement where you get to some place and you leave some place. I mean, it's obviously as access easement. Some people call it access, some people call it ingress/egress. I am not sure if we define it in our Ordinance.

Mr. Howard: I think that's a great definition Mrs. Roberts, thank you.

Mr. Harvey: Mr. Chairman, we do define what an easement and we also define what a private access easement is. A private access easement is defined as an easement through private property specifically authorized by the Planning Commission, except for Family Subdivisions, to allow access to a specific lot or parcel. Traditionally, we've used the term private access easement in the review of subdivisions for the purpose of creating new lots. The last part is not in the definition, that's my commentary.

Mr. Howard: Thank you. Ms. Kirkman, does that help clear that up?

Ms. Kirkman: So, the open space parcel... is that an existing lot now or will that be a newly created lot?

Mrs. Ennis: I don't have the plan in front of me. I don't know.

Mr. Harvey: Mr. Chairman, Ms. Kirkman, from the staff's perspective, an open space parcel is not a lot for development and could be served by an easement to access that property. It wouldn't necessarily be a private access easement in the standpoint that it's not intended to serve a lot for development purposes.

Ms. Kirkman: Is that in our definition of private access easement? That it's limited to access easements for development purposes? Or just for lots? Because my understanding, and please correct me if this is an incorrect understanding, is when this gets recorded, at least according to the plan we have in front of us, there are lot lines around the open space parcel. And doesn't that get recorded as a separate lot with a separate parcel ID?

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Mrs. Ennis: The open space gets a parcel ID; parcel A, B or C, or something like that.

Ms. Kirkman: Right, which is only assigned to lots, correct?

Mrs. Ennis: Parcel IDs? No, open space does get a tax ID and they usually designate it to an HOA. But it will get Tax Map 30MM-C, like that. That's how it will read instead of "-29". C tells us that's it's open space and it's not taxed to an individual owner.

Ms. Kirkman: So, one of the reasons for denial by the Planning Commission was that there was a private access easement which our Subdivision Ordinance says cannot be used in a major subdivision. And we've established this is a major subdivision. It appears we've established there really isn't much difference between an ingress/egress easement and a private access easement. So, how is it that just by labeling this an ingress/egress easement it makes it compliant with the Subdivision Ordinance which prohibits private access easements in major subdivisions?

Mrs. Ennis: The ingress/egress has recorded information that it was already recorded as an ingress/egress. I'm pretty sure it was labeled on the plan where they gave an instrument number where the ingress/egress was recorded. So, it's already an established easement that which the preliminary plan Ordinance states that you have to show existing easements and that's what it's doing.

Ms. Kirkman: But that easement is in a different location and that easement is only to serve an adjacent property. That easement was not created to serve the open space lot.

Mrs. Ennis: No, it was established a long time ago and it just happens to be that's where the open space if that's what you're asking is going as well.

Ms. Kirkman: Okay. Again, another reason that was cited in the reason for denial was regarding block length and we have a definition in the Subdivision Ordinance of what constitutes a block. In the applicant's response, they said they used the VDOT definition. But staff's role and our role is certainly to look at the Subdivision Ordinance. And can you please tell me how this complies with our definition of block and our limitations on block lengths?

Mrs. Ennis: In March, I think, I gave a presentation on block length and segments and we call it a street segment. And we said that with the new update that it would be clarified. I had questions and everybody appeared to understand the difference of block length and street segment and cul-de-sacs at that meeting then. But, the street segment is from the intersection.

Mr. Howard: And you're using the same methodology in this scenario?

Mrs. Ennis: Yes sir.

Mr. Howard: Okay.

Ms. Kirkman: But, I understand there's plans to in the future change the ordinance but we have the existing ordinance to work with now and that existing ordinance distinguished between blocks and streets, because it talks about blocks adjoining streets in Section 22-156.

Mr. Howard: Mr. Harvey?

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Mr. Harvey: Yes Mr. Chairman.

Mr. Howard: The definition that was used for block length and street segment, is that the definition that was reviewed with us in March which is the definition that they should be using for this subdivision plan?

Mr. Harvey: Mr. Chairman, in March the staff gave a presentation to the Commission as to what our interpretation of what those requirements are.

Mr. Howard: Based on our current ordinance.

Mr. Harvey: Yes.

Mr. Howard: That's all you need to say.

Mr. Harvey: And our continued practice of reviewing the ordinance, again, the staff is looking at that in terms of our recommendation to the Commission for your consideration of this case.

Mr. Howard: Right, for clarity. But you came before us, which we asked you to do, and you described what was your normal and usual customary practice as it related to block length and street size, is that correct?

Mr. Harvey: Yes.

Mr. Howard: Okay.

Ms. Kirkman: Mr. Harvey, I understand that you've explained what the practice of staff is, but I would like to go back to what our ordinance actually says.

Mr. Howard: Ms. Kirkman, we've debated this and we had the discussion back in March. So, I would ask that you move onto the next question.

Ms. Kirkman: Mr. Chair, since this has relevance to the application that's before us at the moment, I would just like to get clarification on this issue since the definition of block says "the unit of land bounded by streets". But, as I understand it, the staff uses street length to determine block length, is that correct?

Mr. Howard: That's what they told us.

Mr. Harvey: Yes Ms. Kirkman. One issue we have with the current definition that we, as staff, feel needs to be corrected is that it says "a unit of land bound by streets or a combination of streets and public land". If you look at the literal definition there in relation to this project, there are no blocks because there are no square or rectangular street patterns, or other patterns of streets and features to make it block. So, that's how staff has looked at it, from a street segment standpoint as being that determining where your block length is.

Ms. Kirkman: Okay. Then, another one of the concerns of the Planning Commission was regarding the sections 22-147, 22-142 and 22-144 regarding lot frontage and lot...

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Mr. Howard: Ms. Kirkman, I just want to get two things on the record before you continue your question please. The information that you're citing is from an email that you sent to Mr. Harvey and Mrs. Roberts and you copied Mr. Fields and the email is dated January 8, 2009. And that attachment actually is contained within item 9 on our agenda; for your reference, here's your email.

Ms. Kirkman: I have it.

Mr. Howard: Okay. And this email you indicated to this Planning Commission that you never sent. So I want it clear to everybody that's on the Commission today that you're representing that this email that you sent to Mr. Harvey and Mrs. Roberts represents the Planning Commission's thoughts when, in fact, that's not the case.

Ms. Kirkman: No, Mr. Howard, I believe you are distorting what that previous discussion was and a process that occurred with this. I made the motion regarding denial of the plan; it was a substitute motion. That substitute motion was seconded and passed by a majority on the Planning Commission. In subsequent...

Mr. Howard: Right. And this letter...

Ms. Kirkman: Excuse me, I would like to finish. In subsequent discussions with staff, including Mr. Nugent, to ensure that all the requirements of the subdivision requirement regarding the information that had to be conveyed to the applicant regarding denial, I was asked to provide a copy of my motion which I did do to staff.

Mr. Howard: Ms. Kirkman...

Ms. Kirkman: And that was the motion that was approved by a majority of the Planning Commission.

Mr. Howard: Okay, Ms. Kirkman, just based on your own words just now, you took the liberty to send in information to recap what you believe was in your motion at that time. I have not seen evidence, nor have I asked for any from the County or from the person who takes the notes who captured the motion... there were two different letters sent out to the applicant. And the first letter included what staff believed at the time was actually discussed and was part of the motion. Then you sent an email indicating no, there was a lot more detail to my motion and here's everything that I included in my substitute motion. And then that subsequently went out to the applicant as well. And I think, in full disclosure, which it was nice to hear to indicate tonight that you wanted everybody aware that you're involved in Crow's Nest and that your home is across the street from the proposed subdivision. Most people don't know that because they assume, like all of us, you live in the magisterial district that you represent; which, in fact, that is not the case which again, that's okay, according to the State Code of Virginia. But we didn't understand that, nor was that brought to our attention when we had all these conversations in the past about this particular applicant. So, I appreciate your energy and your zeal in this and I hope that you can get through your questions quickly because staff has looked at all of the information, it's contained within the document, the answers, and staff has a recommendation. So, if you're questioning staff's recommendation, I think we should get to that point and let's get that on the table. And why are you questioning staff's recommendation and what is the issue you have as a Planning Commissioner for the County of Stafford as it relates to this?

Mr. Hirons: Mr. Chairman, do you have copies of the email that you referenced?

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Mr. Howard: I do. I don't have enough for everyone but you can have one here.

Mr. Hirons: Can we also have it inserted into the minutes?

Mr. Howard: We can. I'll give it to Stacie.

Ms. Kirkman: Mr. Chair, according to the letter signed by Mr. Harvey dated January 9, 2009, which contains the attachment which I am reading from, it states "this is a follow-up to the letter dated December 19, 2008. The attached is a description of the Planning Commission reasons for denial and the necessary changes that will permit approval of the plan". I am giving this plan the same level of attention and scrutiny that I have given every subdivision plan that has come before me regardless of what district or its location. And I am going over the reasons that Mr. Harvey stated were the Planning Commission reasons for denial. And the question I had of staff was regarding open space parcel of 21.94 acres. One of the concerns was it did not have required frontage and open space parcel consisting of 0.58 acres does not meet lot size requirements. The applicant's response is silent to this issue that was cited by the Planning Commission. What is staff's assessment of whether or not this plan meets those requirements?

Mrs. Ennis: I'm sorry; you lost me on the open space. Did you refer back down to the lot size and shape? Is that where you're talking about?

Ms. Kirkman: Yes, it's regarding the... there is an open space parcel of 21.94 acres that does not have any frontage. There's also an open space parcel of 0.5 acres that does not meet the size requirements that was cited by the Planning Commission as something that would be needed to be fixed. The applicant's response, when they go over what they've done to change the plan, is silent on this issue, what is staff's assessment...

Mr. Howard: Okay, we got that. Mr. Harvey, do you have an answer for that?

Mr. Harvey: Yes, Mr. Chairman. From the staff's perspective and it's a long held view that an open space parcel is not a lot in terms of our Subdivision Ordinance. Our Subdivision Ordinance says "a tract, plot, portion of a subdivision, or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or for development". In the case of an open space parcel, that's usually for the benefit of the community; it's not intended for development so staff has viewed that as not being a lot. From that perspective, it does not necessarily meet the lot shape, size, acreage requirements or other conformity requirements. That's been the staff's long held view on that.

Mr. Howard: So, there are other subdivision preliminary plans that you've held that same view with in the past?

Mr. Harvey: Yes sir. And I understand that's where the Commission differed from the staff in its vote.

Mr. Howard: Right.

Ms. Kirkman: Mr. Harvey, once this plan is...

Mr. Howard: Ms. Kirkman, address the question to me and I'll address it to Mr. Harvey. Thank you.

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Ms. Kirkman: I will address Mr. Harvey...

Mr. Howard: Well, no, actually the protocol...

Ms. Kirkman: Since the practice has been for Commissioner's to be...

Mr. Howard: The protocol is actually that you'll address the Chairman or I call you out of order and ask you to do it again.

Ms. Kirkman: So, Mr. Chair, are you changing the long-standing practice of Commissioners being able to directly ask Mr. Harvey questions?

Mr. Howard: Ms. Kirkman, you are the only Commissioner that has had that long-standing practice. Even Mr. Fields respects the Chairman's position and typically will ask the Chair first.

Ms. Kirkman: Sure. Mr. Chair, I would like to ask Mr. Harvey a question.

Mr. Howard: Ms. Kirkman, can you ask me the question please?

Ms. Kirkman: Well, sure, if you're versed in these sorts of things. Mr. Chair, is a lot... is this open space lot, which is currently owned by Stafford Lakes, is the ownership of that lot going to be transferred once this development is complete?

Mr. Howard: That was a question you asked way back when Ms. Kirkman. Mr. Harvey, do you have the answer to that?

Mr. Harvey: Mr. Chairman, like any subdivision that has an open space lot or parcel, whatever we want to call it, that would be transferred to the Homeowners Association at the time that they establish the neighborhood or record the subdivision plat.

Mr. Howard: Which, if you check the notes, you will find that that was the same answer we were given.

Ms. Kirkman: Then, Mrs. Ennis, according... in the applicant's response regarding the safety of the Raven Road bridge, they state that according to VDOT the road and bridge repairs have been completed. When staff reviewed whether or not that was an adequate response, did you look at what road and bridge repairs had been done?

Mrs. Ennis: On the plan? No. I was informed that the repairs were completed by VDOT.

Ms. Kirkman: Is staff aware that the bridge repair consisted of a temporary single-lane structure that was put over the creek?

Mrs. Ennis: No.

Ms. Kirkman: So, was staff able to access whether a single-lane temporary bridge is adequate to handle over 300 vehicle trips per day?

Mrs. Ennis: I'm not qualified to answer that.

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Ms. Kirkman: Okay. Then, there was some reconfiguring of the lots. Were any of the drainfields changed as part of that?

Mrs. Ennis: Yes. Some of the drainfields... I don't know if their locations were changed but they lost three lots. I didn't look at the old plan, I only looked at the new one.

Ms. Kirkman: Okay.

Mrs. Ennis: I didn't compare this plan to the old plan.

Ms. Kirkman: Okay. Well, on this plan it states a joint permit application may be required and will be submitted to Virginia Marine Resource Commission. What would that permit be for?

Mrs. Ennis: I don't know.

Mr. Harvey: Mr. Chairman, that's somewhat of a standard notation. If there is a crossing of a stream of a certain size, that wetlands permit may also be required to go through the Virginia Marine Resources Commission.

Ms. Kirkman: Alright. Then on sheet number 5... do you have the plan?

Mrs. Ennis: No I do not.

Ms. Kirkman: So, there are a number of circles on this plat and they're shaded out; they have hatching through them. And, according to the key, that means Phase 1 Archaeological Study Area. Can you explain what that means?

Mrs. Ennis: No, I will defer that to the engineer.

Ms. Kirkman: Okay. And then also on this, it shows a remainder of 49-27 of thirty acres and a remainder of 48-1 and 40-24D? It's on the same page. Do you know what the disposition of that area is? So, over to the far right.

Mrs. Ennis: No, I don't. I would just say it's a remainder of that tax map number. They're not developing anything yet with this property.

Ms. Kirkman: Alright, thank you Mr. Chair. Those are my questions.

Mr. Howard: Thank you Ms. Kirkman. Any other Commissioners have questions about the matter before us, Sycamore Hills Preliminary Subdivision Plan?

Mr. Fields: Mr. Chair, I'm still a little, and if you could ask staff perhaps to address this, we treat the open spaces... you said it's the practice to treat open spaces not as a lot. Assuming that they will be eventually deeded to an HOA that eventually will exist, maybe somebody could answer there's obviously then sort of a transition time where, for the purposes of approving a preliminary subdivision plan and therefore vesting this plan which essentially for all time as long as it's maintained and updated properly, and saying okay this is open space, we don't treat it as a lot, it's going to be deeded to an HOA but that occurs after the preliminary subdivision plan has already been approved, it seems to me there's a little bit of a gray area in there where you're treating it as open, you're assuming that

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it's going to be deeded to an HOA but it hasn't been, and yet for the preliminary plan you're treating it as if it will be but it hasn't been. So, just clarification on how that works.

Mr. Howard: So, Mr. Harvey, you indicated that that's a standard practice in Stafford and Mr. Waldowski reminds us every meeting that we have HOAs in Stafford County. And I live in one myself and lived in a different one before so I certainly know about the open space. It would seem that that's how it's conveyed, I would think, based on what you said. But if you have a different answer, by all means.

Mr. Harvey: Mr. Chairman, Mr. Fields, as a preliminary plan is approved, it identifies land as open space. And the developer proceeds with their plans, ultimately when the construction drawings come in and the record plats, that open space must also be shown on those plans. When the subdivision plat is recorded, that is also recorded as an open space parcel. And that parcel ultimately would be conveyed off to a Homeowners Association. Often times, as a subdivision begins out, the Homeowners Association is a developer and eventually it gets transferred over to the homeowners in their name as the association. If there are any major deviations from what was shown on the preliminary plan for that open space, that would cause the plan to come back to the Commission for a re-review.

Mr. Howard: Have we ever had that occur? That you could recall; I mean, you're not going to remember everything that's on file. But in the last couple of years? I don't recall it myself as a Commissioner but that doesn't mean it hasn't happened.

Mr. Harvey: It may have happened at some point in time where a developer wanted to reconfigure the neighborhood, but I can't recall anything specific in recent times.

Mr. Howard: Okay, thank you.

Ms. Kirkman: I have a follow-up question to that.

Mr. Howard: Sure, Ms. Kirkman.

Ms. Kirkman: So, my follow-up question is, isn't it also typical when a lot is going to be disposed of by transferring it to the Homeowners Association, or whatever the disposition of it may be, isn't there usually a note on the preliminary plan to that effect?

Mr. Harvey: Usually there are, and also on the record plat.

Ms. Kirkman: And I was unable to locate such a note on this preliminary plan. Is it there Mrs. Ennis?

Mr. Howard: I don't believe it's required but we can certainly ask that the applicant denote that on the plan.

Ms. Kirkman: Mrs. Ennis, is that correct? There is no such note on the plan?

Mrs. Ennis: Not on the preliminary. We do require it on the record plat.

Ms. Kirkman: But don't we often get preliminaries in where if the decisions are being made based on how a lot is going to be disposed of that a note is on the preliminary regarding how it will be disposed

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of?

Mrs. Ennis: They can provide a note, if you want the open space to be dedicated to an HOA; if that's what you're asking.

Ms. Kirkman: Well, that's what's been discussed this whole time.

Mr. Howard: Right. I think what we're hearing, Ms. Kirkman, is it's not required but to your point, I certainly recall some preliminary subdivision plans denoting that in the past.

Mrs. Ennis: They can put it, but we do require it on the plat. The plat that records those parcels because they're not legal parcels until the plat is recorded.

Mr. Howard: So, do you know if the applicant would be willing to have that denoted on the... could we get an answer to that?

Mrs. Ennis: Yes. They're shaking their heads yes.

Mr. Howard: The applicant has agreed to that so we can put that in the notes, Stacie, and make sure that that is recorded that way. And that should hopefully take that concern off the table. Okay; any other questions or comments from the Commissioners?

Mr. Mitchell: Mr. Chairman, because it's in the Aquia District, I make a motion for approval for SUB2700206, Sycamore Hills Preliminary Subdivision Plan.

Ms. Kirkman: Excuse me, Mr. Chair; just a point of order. Staff had deferred to the applicant on two of my questions. Can we hear from the applicant on this?

Mr. Howard: Well, let's see. We're in a quagmire, Ms. Kirkman. We have a motion so let's see if it gets seconded and then I'll tell you what we can do.

Mr. Rhodes: Second.

Mr. Howard: Okay, we have a motion that's been seconded; we can go into discussion. Ms. Kirkman, would you like, in your discussion, to have the applicant answer a question?

Ms. Kirkman: I would.

Mr. Howard: Okay. If the applicant is here, I would ask them to come forward and answer Ms. Kirkman's question. It's not a normal debate that we typically would have because we're sort of in a discussion amongst the Planning Commissioners, but I think under the circumstances we should allow it.

Ms. Kirkman: Mr. Chair, I thought usually part of our typical process was to have staff present and then have the applicant present.

Mr. Howard: It is.

Ms. Kirkman: And we hadn't had the applicant present before the motion was made.

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Mr. Howard: I agree, but we had a motion made.

Mr. Leming: What would you like us to present?

Mr. Howard: Ms. Kirkman has a question; I don't know if it's for the engineer.

Ms. Kirkman: There were two questions that were deferred by staff I had asked about on sheet, I believe it was number 5, the hatched areas, what those represent.

Mr. Yates: I believe those are architectural features, Phase 1 and Phase 2, and we have a note on the plan that the one of the architectural features will require a Phase 2 prior to construction.

Ms. Kirkman: So, those are areas...

Mr. Yates: Archaeological, I'm sorry. Not architectural.

Ms. Kirkman: So, there was already a Phase 1 done and it was determined that these were areas of some historical significance? Is that what happened?

Mr. Yates: That's correct.

Ms. Kirkman: Okay. Then, my second question had been around the disposition of the land to the right on that sheet and what the disposition of that is.

Mr. Yates: That land will be... 49-27 and 40-24D will be consolidated at the time of final plat; 48-1 will remain as it is.

Ms. Kirkman: Okay, thank you.

Mr. Yates: Anything else from any of the Commissioners?

Mr. Howard: Are there any other questions for the applicant since they are here at the podium and we're in discussion? No sir, thank you. Okay, we're still in discussion. Is there any discussion from anyone else on the Planning Commission? Ms. Kirkman?

Ms. Kirkman: We're discussing the motion at this point?

Mr. Howard: We are discussing the motion.

Ms. Kirkman: Yes. Well, Mr. Chair, I am going to oppose the motion and for the following reasons. I do not believe the applicant has adequately addressed the reasons for the original denial of the plan, including the fact that this major subdivision has a private access easement in it. And Section 22-176(f) states quite clearly private access easements can't serve major subdivisions. Even if they could, Section 22-176(c) states that private access easements serving five acres or greater must be fifty foot in width and the one on the plat is twenty foot in width. The next reason why I'm going to oppose the motion is that we have a clear definition in our Subdivision Ordinance of what a block constitutes; it is an area and there is a block length in this plan that exceeds 2,500 feet which is a violation of Section 22-156. We've established that lots will be recorded for the open space parcels and ownership of those lots will be transferred; therefore, those lots need to meet the requirements of 22-147, 22-142 and 22-

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144 regarding remnants, out lots and size and frontage requirements. Finally, I believe that the safety concerns about the road regarding the mutual responsibility under 22-26 to subdivide and develop land in accordance with the Comprehensive Plan which has goals regarding transportation safety has not been adequately addressed given that there is a temporary one-lane bridge on a gravel road serving this subdivision which would generate, by the applicant's own estimates, 270 vehicle trips per day. So those are the reasons I'm going to oppose the motion.

Mr. Howard: Thank you. Any other comments from Commissioners?

Mr. Hirons: Ms. Kirkman, could you...

Mr. Howard: Mr. Hirons, you have to address me.

Mr. Hirons: Mr. Chairman, I'm sorry. I actually wanted to see if Ms. Kirkman could kind of address the bridge issue. I drove Raven Road the other day and the bridge that's there I assumed was the bridge that's going to be there, that's going to serve that area.

Mr. Howard: Well, Mr. Hirons, I'll ask Ms. Kirkman the question. I actually drove it myself twice and I did not... I drove it from end to end and I did not notice a difference myself. In fact, I saw a huge tow truck, I guess, flatbed going down to get a resident's car but I'm not sure... I understand your question, Ms. Kirkman. I think what Mr. Hirons is asking is why do you believe that that bridge is a temporary one-lane bridge?

Ms. Kirkman: Mr. Chair, I know for a fact that that is a temporary bridge. I've spoken with the bridge department at VDOT. The reason why there's, if you've driven it you know that there's a big upslope and downslope as you cross the bridge. That's because that is a temporary structure that was literally dropped on top of the old bridge. VDOT purchased that temporary structure with keeping in mind that it would probably be moving that temporary structure around as needed to other spots in the region to serve bridge needs. It is a temporary structure; it is not a permanent solution.

Mr. Howard: Do you know if the width, Ms. Kirkman, is the width of a two-lane road or is it the width of a... it seemed like the gravel road itself is really almost the same width when I drove it.

Ms. Kirkman: The bridge is a one-lane bridge. Only one car can pass on it at a time.

Mr. Hirons: And Mr. Chairman, do we know when that bridge was installed, this temporary if it is temporary?

Mr. Howard: Ms. Kirkman, do you know when the bridge was installed?

Ms. Kirkman: I believe it was installed last summer.

Mr. Howard: Thank you.

Mr. Hirons: Thanks.

Mr. Howard: Good questions. Any other questions of the Planning Commission? Hearing none, we'll call for the vote. All those in favor of saying aye.

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Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Mitchell: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Those opposed say nay.

Mr. Fields: Nay.

Ms. Kirkman: Nay.

Mr. Howard: The vote carries 5 to 2. Or the motion I should say carries 5 to 2. Okay, now we go back to the agenda and we added... we didn't say which one would be 14 but we'll just do it numerically since 38 is lower than 39. We'll make that 14 and then we'll make 15 39. Mr. Harvey, is there staff to discuss the amendments to Zoning Ordinance O10-38?

14. Amendments to the Zoning Ordinance O10-38

Mr. Harvey: Yes, Mr. Chairman. Again, this would amend our definition of immediate family member for the purposes of family subdivisions, and it would specify a family member's spouse. Currently we allow, through the State Code and the local ordinance, subdivision of land from one spouse to another, but this expands it so if a set of parents wanted to give land to their children but, for whatever reason, say their child is deployed overseas, they can give it to the child's spouse. And so this broadens the ability to do the family subdivision and the definition. Again, this is something that's required by the State Code. Also, the Zoning Ordinance definition is being brought up to the same standard as the Subdivision Ordinance definition.

Mr. Howard: Okay. Are there any questions of the Commission for Mr. Harvey or staff?

Mr. Mitchell: Mr. Chairman, I make a motion for approval of proposed Ordinance O10-38 which adds the definition...

Ms. Kirkman: We haven't even gone to public hearing.

Mr. Howard: Well, I think we're authorizing for a public hearing.

Mr. Mitchell: Okay.

Mr. Howard: So, you're making a motion to recommend...

Mr. Mitchell: Authorization of a public hearing.

Mr. Howard: Is there a second?

Mr. Rhodes: Second.

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Mr. Howard: Any discussion?

Mr. Fields: Just a question. This is all just housekeeping, right? These are mandated by State Code.

Mr. Harvey: Yes sir.

Mr. Hirons: Mr. Chairman, is the wording of the proposed Ordinance exactly as required by State Code?

Mrs. Roberts: Yes.

Mrs. Hornung: Excuse me, Mr. Chairman. That adding the spouse, that was enacted in the General Assembly this year and it will be effective July 1st, 2010.

Mr. Mitchell: Mr. Chairman, I might submit that this is just a codification of law.

Mr. Howard: I might agree.

Mr. Hirons: But there's no Stafford interpretation of what was passed or what's going to become law interpreted into this? This is exactly what State Code called for?

Mrs. Roberts: Correct.

Mr. Howard: Any other questions or comments? I'll call for the vote. All those in favor of the motion signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Fields: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed signify by saying nay. The motion carries 7 to 0. The next item on the amended agenda is item 15 which is the Amendments to the Zoning Ordinance O10-39. Mr. Harvey, is there staff to walk us through this?

15. Amendments to the Zoning Ordinance O10-39

Mr. Harvey: Yes, Mr. Chairman. Mrs. Hornung will be able to give you more of an update than I can. But, as mentioned earlier, this is something that's required by the change in state law.

Mr. Howard: Okay, Mrs. Hornung?

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Mrs. Hornung: Yes sir. This is also something that will be effective July 1 and the changes to make the Ordinance that we have for posting securities in the Subdivision Ordinance in line with the State Code, and also in line with the Stafford County's security policy. So, the language that's changed is that instead of, like in paragraph (d), it did say "partial releases shall be made up to an amount that is cumulatively equal to no less than ninety percent of the original cost". The security policy actually states seventy-five percent. So, what we did is we took out some of the specifics. And I worked with Keith Dayton, Public Works Director, to make sure that this section for security requirements for the Subdivision Ordinance, that it is in line not only with the State Code, which you do have that section added to, it would be number 5 the items that are in italics are the new language that's added to be effective July 1. And also bring the rest of this section in line with our department names and security policy. So it's also another housekeeping item.

Mr. Howard: Did we ever have a Department of Financial Services?

Mr. Harvey: Yes, we did.

Mr. Howard: We did? Wow... interesting. Alright, I'll bring it back to the Commission. Are there any questions of staff? Okay, hearing none, is there a motion?

Mr. Fields: So moved to send to public hearing.

Mr. Mitchell: Second.

Mr. Howard: Second by Mr. Mitchell. Sorry Mr. Rhodes. All those in favor signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Fields: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hiron: Aye.

Mr. Howard: Aye. Those opposed signify by saying nay. The motion carries 7 to 0. And now we are into the later part of the agenda which would include Mr. Harvey's Director's Report.

PLANNING DIRECTOR'S REPORT

Mr. Harvey: Thank you, Mr. Chairman. To summarize some of the issues that went through the Board yesterday, the Board adopted ordinance provisions regarding nonconformities where they may be rebuilt due to natural disasters or federal declarations. The Board also had two actions regarding the Comprehensive Plan. They adopted Resolution R10-197, which I have included at your desk, which authorizes the County Administrator to contract for services for economic and fiscal analysis of the plan document that we're working on. They also authorized...

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Mr. Howard: Mr. Harvey, will that be concluded before the public hearing or after the public hearing? Do you know the timing on that?

Mr. Harvey: There was some very broad discussion about that last night and it was mentioned that some of the Board members thought that this study would probably be completed somewhere mid-September.

Mr. Howard: Okay. It would be great to have it before the hearing, I mean, if we could so people would understand this.

Mr. Harvey: Yes. But there wasn't any firm discussion as to what should come first, the plan or review the study. And then also the Board authorized using outside legal counsel for review of the Comprehensive Plan document. And that concludes my report.

Mr. Howard: Thank you.

Ms. Kirkman: I have a question for Mr. Harvey. The Board also adopted a CIP yesterday and maybe this is actually more for the attorney. One of the things that puzzled me a bit is in the Resolution and in the accompanying documents there were references to it being part of the Comprehensive Plan. And I was wondering how that could be made part of the Comprehensive Plan without going through the Planning Commission?

Mrs. Roberts: It's my understanding that it is an option to make it part of the Comprehensive Plan and that the Board chose *not* to make it part of the Comprehensive Plan and that it wasn't coming through the Planning Commission. I did not hear the discussions at last night's meeting...

Ms. Kirkman: Oh, so they changed from what the Resolution said?

Mrs. Roberts: I'd have to check on that. But I know I had discussions months ago that it always went through the Planning Commission because it was part of the Comprehensive Plan, but they were taking it out. I did not hear if that changed. I can check on that for you.

Ms. Kirkman: Okay, thank you.

Mr. Howard: Thank you. Okay, Mrs. Roberts, is there a County Attorney's Report?

COUNTY ATTORNEY'S REPORT

Mrs. Roberts: Just next meeting will be my last meeting. Hopefully Alan Smith will be here also for anyone who hasn't met him. He will be filling in until the Board allows us to hire staff. Unfortunately, that leaves Mr. Howard until he retires or is replaced and Mr. Smith as the only legal counsel.

Mr. Howard: I understand that you're moving to Florida, is that correct?

Mrs. Roberts: Yes.

Mr. Howard: Well, we wish you well and I certainly want to thank you for all you've done for us, your support, and I appreciate your wisdom that you've bestowed upon us on several occasions.

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Mrs. Roberts: Thank you.

COMMITTEE REPORTS

Summer Meeting Schedule

Mr. Howard: Committee Reports? Holly, you gave a report before. I don't have Chairman's Report. Is there any other business that anyone would like to bring forward? Would anyone like to make a motion to approve the minutes of May 5th, Cinco De Mayo?

CHAIRMAN'S REPORT

OTHER BUSINESS

APPROVAL OF MINUTES

May 5, 2010

Mr. Rhodes: So moved.

Mrs. Hazard: Second.

Mr. Howard: Motion by Mr. Rhodes, seconded by Mrs. Hazard.

Mr. Rhodes: I'd just like to acknowledge that we're now down to forty-two days on the turnaround of the minutes. It keeps getting faster.

Mr. Howard: Thank you. Mr. Mitchell is showing there's a Summer Meeting Schedule on the agenda. Do we want to talk about that Mr. Harvey?

Mr. Harvey: Well, Mr. Chairman, I put that as a placeholder on the agenda after our discussion at the end of last meeting.

Mr. Howard: Right, to see if we needed that second meeting for the Comprehensive Plan review. I don't think we know the answer yet. But I would tell the Commissioners that, and I know we did talk about it, I'm not sure if the mics were on or not, but some indicated they may be on vacation, some may not be. So, I guess if there's a particular date in July that's not good if you can send it to Mr. Harvey and myself. We will absolutely try to avoid those dates recognizing we probably will want that second meeting in July.

Ms. Kirkman: Mr. Howard, I was actually the one that raised the issue and we can certainly refer to the minutes when we have them. But I thought what was decided at the last meeting was today we would set the schedule for the summer?

Mr. Howard: Well, we talked briefly. I don't know that we came to a conclusion, but I'm not opposed to trying...

Mr. Rhodes: Mr. Chairman, if we might, I think we still need to dispose of the vote on the approval of the minutes.

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Mr. Howard: That's a good point Mr. Rhodes. Any other discussion on the minutes? Okay, I'll call for the vote. All those in favor of approving the May 5th minutes signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Fields: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Those opposed signify by saying nay. That motion carries 7-0. So we're back to the summer session. Everybody has their calendar in July. So we have a meeting scheduled for July 7th, is that right? It sounds like most of that meeting, Mr. Harvey, except I know two items may have to be added, but most of that meeting could be devoted to the Comp Plan other than obviously the public comments.

Mr. Harvey: Correct.

Mr. Howard: Okay. Well, our original meeting was the 21st which we nixed. We certainly can resurrect that date if that's... it would be the normal date people would be expecting anyway had they not checked our calendar. Is there anybody that cannot attend on the 21st as of today? It's a Wednesday.

Mr. Mitchell: I will be gone from the 9th through the following Sunday.

Mr. Howard: That does not include the 21st.

Mr. Mitchell: Okay.

Mr. Howard: That will be the 18th I think actually.

Mr. Rhodes: So the 21st is available.

Mr. Howard: So can we get a motion to schedule a second meeting in July on July 21st starting at our normal time, 6:30?

Mr. Fields: Have we decided that we need to do that, or do we know yet? That's what I'm confused about.

Mr. Howard: Ms. Kirkman would like one on the calendar so I'm just trying to be transparent Mr. Fields.

Mr. Fields: Alright. Well, that's our regular day; that's the obvious choice.

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Mr. Howard: Yeah. We can cancel it five days before the meeting, I believe, right Mrs. Roberts?

Mrs. Roberts: Correct.

Mr. Rhodes: Okay, so moved.

Mr. Howard: Alright, we have the motion; is there a second?

Mr. Mitchell: Second.

Mr. Howard: Second by Mr. Mitchell. Any discussion? All those in favor of scheduling the meeting signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Fields: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Those opposed nay. The motion carries 7-0. Mr. Harvey, will you please make the necessary changes to the calendar. I think we have to announce it at least five days in advance which we would meet that criteria.

Mr. Harvey: Yes, we'll make the noted changes on the web page and also work through our Information Officer to make sure the media is aware.

Mr. Howard: Great.

Mr. Hirons: Mr. Chairman, if we do hold that meeting, will Mrs. Roberts be able to join us at that meeting? Or are you departed before then?

Mrs. Roberts: I'll be sunning, sorry.

Mr. Howard: Mrs. Roberts, when are you leaving?

Mrs. Roberts: My last day is the 13th of July. I start my new job the 19th.

Ms. Kirkman: What locality are you going to?

Mrs. Roberts: Cape Coral.

ADJOURNMENT

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With no further business to discuss, the meeting was adjourned at 10:12 p.m.

Gordon Howard, Chairman
Planning Commission